DOCUMENT RESUME

ED 147 069 RC 010 196

TITLE	Problems of Definition of Tribe in Alaska Relating to Public Law 93-638. Hearings Before the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs, United States Senate, 94th Congress, 2nd Session on Problems Associated with the Statutory Definitions of Tribe as They Relate to Native Alaskans (Juneau, Alaska, September 2, 1976; Anchorage, Alaska, September 3, 1976; Bethel, Alaska, September 4, 1976).
INSTITUTION	Congress of the U.S., Washington, D.C. Senate Committee on Interior and Insular Affairs.
PUB DATE	77
NOTE	373p.; Not available in hard copy due to small print size of original document
EDRS PRICE	MF-$0.83 Plus Postage. HC Not Available from EDRS.
DESCRIPTORS	Accountability; *Alaska Natives; American Indians; *Definitions; Federal Legislation; *Federal Programs; *Financial Support; *Hearings; Legal Problems; *Tribes
IDENTIFIERS	Congress 94th; *Indian Self Determination and Educ Assistance Act

ABSTRACT

Testimony presented in these hearings centers on the legal problems derived from the many and varied statutory definitions of "tribe" and the resulting confusion on the part of the administrators of Federal programs designed to benefit American Indians and Alaska Natives (e.g., in Alaska, there are currently about 465 legal entities which may be defined as "tribe"). The statements presented in these hearings span three days and include the following representation: senators from South Dakota and Alaska; Bureau of Indian Affairs (BIA); Southeast Alaska Regional Health Corporation; Tlingit and Haida Chapter (Sitka, Alaska); Indian Reorganization Act Council (Chilkat Village); Tlingit and Haida Community Council; Alaska Native Sisterhood; Central Council of Tlingit and Haida Indians of Alaska; Indian Reorganization Council, Ketchikan Indian Corporation; Johnson-O'Malley Parent Committee; American Indian Policy Review Commission; Unalakleet Native Village Council; Alaska Federation of Natives; Cook Inlet Native Association; Aleut League; Mauneluk Association, Kotzebue, Alaska; United Villages; Fairbanks Native Association; Village Corporation; Yupiktuk Bista Incorporated; Kuskokwim Native Association; Association of Village Council Presidents; Bean Ridge Corporation; Tanana Chiefs Conference; Health Department, North Slope Borough; etc. The appendices include: the legislative history of the Indian Finance Act; an assessment of the implications of the present definition of Tribe(s) contained in the Indian Self-Determination and Education Assistance Act; and additional material, statements, and communications submitted for the record. (JC)

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PROBLEMS OF DEFINITION OF TRIBE IN ALASKA RELATING TO PUBLIC LAW 93-638

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON INDIAN AFFAIRS

OF THE

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS UNITED STATES SENATE

NINETY-FOURTH CONGRESS

SECOND SESSION

ON

PROBLEMS ASSOCIATED WITH THE STATUTORY DEFINITIONS OF TRIBE AS THEY RELATE TO NATIVE ALASKANS

JUNEAU, ALASKA, SEPTEMBER 2, 1976
ANCHORAGE, ALASKA, SEPTEMBER 3, 1976
BETHEL, ALASKA, SEPTEMBER 4, 1976

U.S. DEPARTMENT OF HEALTH,
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81-879 O WASHINGTON : 1977

RC010196

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PROBLEMS OF DEFINITION OF TRIBE IN ALASKA RELATING TO PUBLIC LAW 93-638

THURSDAY, SEPTEMBER 2, 1976

U.S. SENATE,
SUBCOMMITTEE ON INDIAN AFFAIRS,
OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Juneau, Alaska.

The subcommittee met, pursuant to notice, at 1:25 p.m., in courtroom A, State Court and Office Building, Hon. James Abourezk presiding.

Present: Senators Abourezk, Gravel, Stevens and Commissioner John Borbridge, American Indian Policy Review Commission.

Also present: Tony Strong, professional staff member.

OPENING STATEMENT OF HON. JAMES ABOUREZK, A U.S. SENATOR FROM THE STATE OF SOUTH DAKOTA

Senator ABOUREZK. The Indian Affairs Subcommittee hearings will come to order. My name is Senator James Abourezk of South Dakota, chairman of the Indian Affairs Subcommittee. I would like to yield at this time for a statement from Alaska Senator Mike Gravel.

STATEMENT OF HON. MIKE GRAVEL, A U.S. SENATOR FROM THE STATE OF ALASKA

Senator GRAVEL. Thank you very much, Jim. Senator Stevens and Mr. Borbridge will be joining us in a moment, but we did want to get the hearings underway since we are late in getting started and we have a large number of witnesses to be heard. I think it is important to appreciate the time constraint that we are under and that forcibly statements will have to be limited if we are to hear everybody involved. I am sure that the committee will have the record open to receive statements from individuals who do not get a chance to make them orally.

I am personally very grateful to Senator Abourezk, who is taking up his time on this Labor Day weekend to fly to Alaska rather than to his own State, South Dakota, where he would have been attending various affairs and being very visible to his own constituency, but coming to Alaska and becoming informed on a very esoteric problem—not so esoteric to you, the Native community, because it involves rights of yours and involves your capability within the socioeconomic community of Alaska and the Nation, but esoteric from another point of view, because it deals with definitional problems, and so these hearings will be very valuable because from this will spring decisions made by the Congress in the future which will inure substantially to your benefit, so I personally want to use this opportunity to thank Senator Abourezk for taking up his time and coming forward and thanking John Borbridge and Ted Stevens in this regard.

Senator, it's all yours.

STATEMENT OF HON. JAMES ABOUREZK, A U.S. SENATOR FROM THE STATE OF SOUTH DAKOTA—Resumed

Senator **Abourezk**. Thank you very much, Senator Gravel. We will be joined by Senator Stevens and John Borbridge of the American Indian Policy Review Commission. I might say at the outset that—am I able to be heard by everybody in the room? Can you hear me? It is in a sense a joint set of hearings between the American Indian Policy Review Commission and the Subcommittee on Indian Affairs of the Senate Interior Committee, and John Borbridge will be sitting in his capacity as a Commissioner of the American Indian Policy Review Commission.

The policy of Congress is to allow for the full participation of Indian tribes in programs and services conducted by the Federal Government for Indians and to encourage the development of human resources of the Indian people. The prolonged Federal domination of Indian service programs has served to retard rather than to enhance the progress of Indian people and their communities by depriving Indians of the full opportunity to develop leadership skills crucial to the realization of self-government. It has denied to the Indian people an effective voice in the planning and implementation of programs for the benefit of Indians which are responsive to the true needs of Indian communities. The Congress has recognized the obligation of the United States to respond to the strong expressions of Indian people for self-determination. The Congress has committed itself to the maintenance of the Federal Government's unique and continuing relationship with and responsibility to the Indian people, including the Indian people here in Alaska, through the establishment of a meaningful Indian self-determination policy which permits an orderly transition from Federal domination of programs which serve Indians to effective and meaningful participation by the Indian people for the planning, conduct, and administration of those programs and services.

The Congress has become aware of an acute problem that has come about because of the many and varied statutory definitions of what a tribe is, as they may or may not apply here in Alaska. The result of those differing definitions of an Indian tribe is great confusion on the part of the administrators of those Federal programs which are designed to benefit Indians and Alaskan Natives. It appears that of the approximate 225 villages and 24 regional organizations that there are about 465 legal entities that may be defined as "tribe."

The purpose of these oversight hearings is to review those problems caused by the ambiguous definitions of tribe, and to review other problems relating to contracting for Federal programs and services. Aside from the specific purposes that I have just mentioned, the hearings which we will conduct will review other problems that the American Indian Policy Review Commission can address itself to in its recommendations to the Congress.

The first witness we will have this afternoon will be the president of the Tlingit and Haida Central Council, Mr. Raymond Paddock. Ray, do you want to come forward, and if you have other people you have with you that you want to accompany you, if you would like to bring those up. And before you get underway, Ray, I want to introduce the senior Senator, Senator Stevens, from Alaska, and ask if he has any statement he would like to make.

Senator **Stevens**. No. I am very delighted that you have accepted the request that Senator Gravel and Congressman Young and I made to conduct these hearings throughout Alaska, and that you have taken your time to come with us, and I am looking forward to developing a good record on these subjects, Senator Abourezk, but I have no statement.

Senator **Abourezk**. Thank you very much. These hearings are being held at the request of Senator Stevens and Senator Gravel, at the urging of the Indian community throughout Alaska for clarification of these points.

Also with us is John Borbridge. John, do you have anything you would like to say?

Mr. **Borbridge**. I do want to acknowledge and join with Senator Stevens and Senator Gravel in both welcoming you to Alaska and as we had the occasion to discuss formally and informally, Senator Abourezk, I feel that this meeting is going to represent just one step and one phase in your active participation in the affairs affecting not only Alaska Natives but Alaska in general, to the extent that having you here today in view of all of us is a foundation for meaningful and very much more involved activity in Alaska in the future, and it is a pleasure to have you here and to welcome you to our home. Thank you.

Senator **Abourezk**. Thank you very much.

Now, I hope all the witnesses will try to abide by the time restraints that we have, and the first witness, as I said, is Ray Paddock, an old friend of mine. I'm very glad to see him and would like to welcome him to the subcommittee hearings as you have welcomed me to Alaska.

Mr. **Paddock**. Thank you, Senator.

STATEMENT OF RAYMOND E. PADDOCK, JR., PRESIDENT, CENTRAL COUNCIL, TLINGIT AND HAIDA INDIANS OF ALASKA

Mr. **Paddock**. First I would like to introduce beside me Mr. Eli Reyes, who is the deputy director of our Southeast Agency Contract. I am also expecting Mr. Joe Wilson, who is the director, to join us, and they are the entity that has been dealing primarily with Public Law 93–638, the Indian Self Determination Act.

You have been all given a packet that we prepared which is our formal testimony. I am going to submit that without reading it and just briefly go around it to a number of problem areas that we have. I appreciate the opportunity to appear before this committee, and I would like to acknowledge the presence of my predecessor, Mr. Borbridge, who understands very clearly the problems that we are faced with and also the presence of, for the benefit of those here, of your staff assistant, Mr. Tony Strong, who was on my staff and worked for the central council last summer. I appreciate your wisdom in hiring a Tlingit to handle your Indian affairs.

Senator **Abourezk.** I just want to say that I always in my office have two people, Indian people, handling Indian affairs for me. One deals specifically with South Dakota Indian problems, and the other one deals with national Indian problems, because as chairman of the subcommittee I have found that people from all over the country, Indian people, come in to see me about legislation and projects and so on, and when I got Tony Strong of Klukwan on my staff, all of a sudden legislation that kept winding up in my file for me to take action on was Alaskan legislation, and there was no more Navajo, no more Pueblo, no more anything except Alaska, and mostly Klukwan.

Mr. **Paddock.** Senator, one of the reasons that there is Public Law 93–638 which I summarized in my opening statement is the fact that in 1970 President Nixon came out with his statement on Indian self-determination without termination. At that time, John Borbridge was president of the central council, and with the help of our congressional staff or congressional delegation, assisted the central council in getting the first contract to contract programs of the Bureau of Indian Affairs agency in the Nation, I believe, and I think Zuni was also along with us.

The experience that we have gained over the years since 1970 and 1971 when we were attempting to get this contract let, our testimony and the experience we received, led to the implementation and finally the passage by Congress of Public Law 93–638. The act itself departs somewhat from the original contract we received, which was under the Buy Indian Act, and we now have to adjust ourselves to rules and regulations of Public Law 93–638, and this has caused us a number of problems which I would like to relate.

The first one is a problem of identity, which you mentioned in your opening remarks. It was never clear, it was never made clear by the Bureau of Indian Affairs that they regarded us as a tribal governing body, and only this last week we received a letter from the area director, the area office, that confirmed the fact that we were indeed a tribal governing body.

In addition, it also named, and we have a letter to that effect which we will support this with, the following entities as tribal governing bodies: The Sealaska Corp., the village corporations established under the Alaska Native Claims Settlement Act and the IRA councils.

Since we do have in hand now the document that will assist us in gaining Federal contracts as a tribal governing body, we still have to work out the problem administratively of where this is leading us, and hopefully the Congress can deal with it.

We are primarily interested in the delivery of human resources-type programs, and the definition of what our status is leads not only to problems within the Bureau of Indian Affairs, but to all other contracts that we have with Federal agencies. When we contract with CETA, for instance, the Department of Labor, they in turn want to know who we are and are we in fact an Indian tribe. When we contract with HEW for public health or Indian education programs, the status and the definition again come up, so this is a problem that must be resolved, and we feel that we are in the best position to address these human resource problems.

There are a number of reasons why we feel this way, and I would like to relate that informally to the committee. Sealaska and the village corporations are named as coequal in the definition of tribal status, but both—well, Sealaska is made up, first of all, of shareholders, and there is a deterioration beginning in Alaska of who a shareholder is. It is not necessarily an Alaska Native or a Tlingit-Haida.

Now, the same is true in village corporations. In the definition in the Alaska Native Claims Settlement Act they don't determine what a village corporation is, so it's up now to the Bureau of Indian Affairs, hopefully through our assistance and with the help of the communities, to decide which entity in the community is the village corporation.

Now, there are corporations for profit in the villages and there are nonprofit corporations existing in villages. There are also municipal communities set up under Alaska State statutes. Some are made up of all-Native mayors and city councilmen; some are not made up of Native mayors and city councilmen, and yet they are recognized as Native villages under the Alaska Native Claims Settlement Act.

The IRA councils are even more remote in Alaska or in southeast Alaska, with the exception of the community of Klukwan, which has a very active IRA council. We have IRA councils in Alaska that have not met in 25 years, and I was hoping that Mr. Frank See of Hoonah would be here, who is the president of the IRA Council and has been for 25 years. They have not met in at least 10, that I know of. Is that correct?—they have not even met. We have a number of IRA councils throughout Alaska that are essentially defunct but have outstanding loans through the Bureau of Indian Affairs and continue to get bills and statements from the BIA credit office.

So in the long run what I am saying is that I think it is established through precedent, through legal precedent, in a number of ways that we are the tribal governing body and it has been acknowledged now by the Bureau of Indian Affairs, at least in this area office. There is still a long way to go.

Senator ABOUREZK. Ray, does that mean that for the purposes of 638, the Indian Self-Determination Act, that you are then determined the tribal governing body, or is that just——

Mr. PADDOCK. Well, the Self-Determination Act muddied up the situation even more than it was before. Previously we had contracted under the Buy Indian Act. The Self-Determination Act, along with the Alaska Native Claims Settlement Act, gave equal status to the villages and regional corporations, as mentioned in the Alaska Native Claims Settlement Act.

The problem, then, is one of definition, of who we are and how we go about contracting.

I would like to give a little historical background as to how this came about, and which our congressional delegation has dealt with, particularly Senator Gravel, very early after his election dealt with in Congress. Back in 1912 the Alaska Native Brotherhood was the primary political organization that represented Alaska Natives. The manner in which they were organized led to some questions in Congress and in the Bureau of Indian Affairs as to who they really represented.

It was not until 1935 that this issue was addressed in the Congress, and on June 19, 1935 the Tlingit-Haida Jurisdictional Act was passed establishing a central council, but there was never any procedures for setting up the central council, so it was not until August 19, 1965 that that act was amended creating a representative tribal governing body.

This amendatory legislation was sponsored, cosponsored by Senators Gravel and Stevens, and was passed, and with that we had the blessings of Congress, that we were a tribal governing body, and we proceeded to do business under the leadership of President John Borbridge.

In 1970 there was a relatively small judgment fund which was passed as a settlement for our claims against the U.S. Government. That settlement was for $7½ million to represent some 14,000-plus people. The requirement of Congress was that that money not be disbursed among the people but be used for the social and economic development of our people. With those funds, we have been able to begin a number of Federal programs and if you were able to get out into our villages now you would see in the villages a number of things happening based on Federal programs.

It's been an uphill fight all the way in order to get these various programs that we have, simply because of the definitional program that we have regarding tribal governing body. We feel that we have resolved this to a point now, but it must be resolved once and for all so that we may deal with other Federal agencies.

To give you an example in contracting, for instance, we have a grant under CETA, title III, Department of Labor. That title was passed after a great deal of testimony in Congress by Indian people and by the Bureau of Indian Affairs. A definition was established under title III that recognized the central council as an Indian tribe; however, it was overlooked in titles II and VI of that act and they went back to the same old definition of "Indians living on or near reservations," so we found that we were receiving about 50 percent of the funds that other Indians were receiving in the Lower Forty-Eight for comprehensive employment training programs.

We again went back to the Congress and we are attempting now to have that revised through the Public Works Committee and the Labor Committee, but the point remains that the problem of definition is where it all really began, and if we could resolve that once and for all, for all of us, that would never have cropped up in the first place.

I would like to talk now about the Indian Financing Act and the kind of problems we have had with that. The Indian Financing Act, Public Law 93-262, was passed on April 13, 1974, to provide for financing the economic development of Indians and Indian organizations. Once again we get back to the problem of definitions. There was a mistake—I think it was an unintentional mistake—in the bill, requiring that those Indian tribes that have loan funds are not eligible to receive loans and grants under the Indian Financing Act. This has caused us a number of problems, because several years ago we established a small, a very small, business development loan fund, $175,000 to serve 14,000 people, to supplement other funds that would be available to us, either through banks or SBA or through the Bureau of Indian Affairs.

In interpreting the regulations now the BIA has ruled that since we are an Indian tribe that has a loan program, our people are ineligible to receive credit assistance through the BIA. We feel that this is unfair simply because we have a limited program.

In addition they have ruled that existing IRA councils that have outstanding loans through the Indian Revolving Loan Fund are also ineligible, and the people that reside in those communities, which are most of the communities of Southeast Alaska, are ineligible for funds under the Revolving Loan Fund.

Because of this we have contemplated dropping our own loan program, simply to give more people the benefit of receiving credit and loans and grants through the Indian Financing Act, but the intent has still not been clarified and needs to be clarified somewhere in the central office in Washington, because our own area director interceded in our behalf and attempted to get a clarification and an exception from the central office on our behalf. He was unable to do so.

But throughout Alaska our people are not being fairly treated and it is impossible for young or ambitious Indian entrepreneurs to get started without assistance from the BIA, and then are ruled ineligible over a technicality that I don't think was intended by the Congress.

I would also like to talk about the problems which we had relating to Indian education, attempting to deliver Indian education programs. Previously the Alaska Federation of Natives had a contract with the Bureau of Indian Affairs to deliver Johnson-O'Malley programs on a statewide basis. Following passage of the Self Determination Act, it became very obvious to us that they would [illegible] be able to effectively deliver the program, so we began a planning process that would allow us to contract directly under the Indian Self Determination Act, and since Mr. Wilson is the person who was dealing most closely with this, the frustrations that we have had attempting to do this, I would like him to explain the process that we went through. We still do not have a contract for Johnson-O'Malley programs and our villages are still not being served by Johnson-O'Malley programs.

Mr. WILSON. The central council, when the Alaska Federation of Natives announced that they would no longer administer or have a contract to provide for the Johnson-O'Malley program to all of Alaska, the central council executive committee passed a resolution to the effect that the central council should be the entity to submit a proposal to the Bureau of Indian Affairs to contract for the Johnson-O'Malley program and any other educational programs in our region.

The contract proposal was submitted and through the Southeast Agency involved all planning with all the communities in our region and resulted in the central council obtaining resolutions of endorsements that the central council, through the Southeast Alaska Agency contract, would be the entity to administer the Johnson-O'Malley programs in our region.

Our proposal was submitted and has not been acted on as to this date, and at the present time it boils down to the interpretation that the Bureau has in regard to the ability for the central council to administer the program under 93-638, section 271A, and they are proposing that we must contract under 93-638, 271C, or 273, which poses quite a burden on the central council to administer effectively the Johnson-O'Malley program in our region. We have appealed this decision. It is being reviewed by the Solicitor's Department right now and we anticipate that we should receive some decision with regard to our appeal some time next week.

However, the predicament that this has placed the central council in is one that where we should be now implementing the Johnson-O'Malley programs in respective communities in our region. The delay is causing some concern in the communities because school has already started and they are losing confidence in the central council by the virtue of the delay.

I doubt, from our discussions with the contracting officer for the Bureau and the Solicitor, that we will receive a favorable decision on our appeal.

Mr. PADDOCK. Thank you, Joe. Back to the Indian Financing Act problem, I do have a document that I would like to submit for evidence. It's the legislative history of the Indian Financing Act as it relates to our problem and has been researched this summer by a member of our staff, Lillian Peters. [See app. I, p. 201.]

If there are any questions, we would be happy to respond, Senator. We will submit a more detailed report on this also.

Senator ABOUREZK. Why do you feel that your organization is the best representative of the T. & H. people to qualify your particular organization as the tribal governing entity?

Mr. PADDOCK. As I stated before, there are a number of problems with the other definitions which the Bureau of Indian Affairs has defined as having equal status with us. Tlingit and Haida, by its own jurisdictional act, identifies us technically and racially. We have a constitution that has been accepted by the Secretary of Interior, and rules of election that have been adopted and accepted by the Secretary of Interior. We have a democratically elected process, which is a requirement of how the central council elects its officers and represents its communities.

By comparison, there are problems that cannot be immediately resolved with the other three equal entities that have been offered by the Bureau of Indian Affairs. The shareholding problem must be resolved, because it does not represent ethnically the Tlingit and Haida people. In fact, there are non-Natives now holding shares. It's possible in the future that the State of Alaska will hold shares simply because somebody had no heirs and passed away in a nursing home or a pioneers' home or something of that sort. There are many legal problems that I am sure that Sealaska is working on and will be resolved eventually. village corporations are in the same situation and must deal with this problem, and until that is finally resolved, the status is not an equal one.

The IRA corporation, many of them are defunct, have not met and are inactive, so we feel that we are in the best position and have the legal precedent to represent our people for the delivery of social service programs.

Senator Abourezk. OK, thank you. If there are no questions from other members of the panel—John?

Mr. Borbridge. Yes, Mr. Chairman, I would like to ask Mr. Paddock—although you have alluded to, currently the central council under contract with the Bureau of Indian Affairs is administering the entire services previously performed by the Southeast Agency of the Bureau of Indian Affairs?

Mr. Paddock. Yes.

Mr. Borbridge. One of the concerns you have expressed is that with the somewhat ambiguous or unfavorable attitude of the Bureau with respect to the definition of "tribe," thus in effect a determination of who is eligible to contract for those services, you feel that there may well be a direct or an unfavorable impact in terms of the ability of the central council to so contract and to so provide your services? Will you touch on that, please?

Mr. Paddock. Yes. If the question remains up in the air and is not resolved finally by the Bureau of Indian Affairs in a very forthright way, the question will remain in the minds of many other organizations that we are not united, and I would like to resolve once and for all that we are a united body and that laying that to rest in the minds of the Bureau of Indian Affairs, and of our own people.

Senator Stevens. Well, Mr. Chairman, as I understand it, the Bureau is taking the position that these four entities that would qualify, and that your organization is one of them?

Mr. Paddock. Yes.

Senator Stevens. And you seek exclusive designation?

Mr. Paddock. Well, we want a clarification of the designation.

Senator Stevens. Are there others who also seek rights under the determination that they—well, Sealaska, do I understand that Sealaska, a village corporation under ANCSA, IRA organizations previously recognized—are any of those competing with you now?

Mr. Paddock. At the moment we have a working relationship with Sealaska in that we are doing human service programs on behalf of the people of southeast Alaska. The village corporations are not competing with us, as far as definition of tribal status. There is some competition going on in some villages for programs, which the Bureau will have to resolve itself who they are dealing with.

Senator Stevens. Well, Congress is going to have to face this question, and I am sure Senator Abourezk is one of those who will be involved.

Senator Abourezk. Ray, how do you deal with the local village? I mean, how do you have the interface, who do you recognize and what kind of input do they have into your structure?

Senator Stevens. Before you get into that, I would like to ask Ray one thing more.

Senator Abourezk. Sure.

Senator Stevens. Don't you think it would be helpful if we devised some means for a recognition referendum, so to speak? I mean, as I understand it, what you are saying is that Congress ought to declare that T. & H. is in fact a tribal entity.

Mr. Paddock. Yes.

Senator Stevens. And down here that might be proper, but we have to face the question of an act that takes care of problem in the other

11 regions. Should we not address this by asking Mr. Abourezk to get us a vehicle whereby there would be a referendum in each one of the 12 regions—what is the tribal entity that the BIA must deal with?

Mr. **Paddock.** The matter of a referendum, this has come up in discussion with the area director. I think that is possibly the most straightforward way we could do it, in dealing with this problem, to allow the communities to decide for themselves what is the tribal governing body. We have a constitution that recognizes Tlingit-Haida community councils on a representative basis. For instance, Pelican will have one, Juneau has 10, based on population, delegates to our convention. That is a fair way in which to elect, but there are other existing entities within a community which attempt to deal with the Bureau of Indian Affairs also, and possibly through a referendum—that may be a solution that we can address.

Senator **Stevens.** I am sure you recognize the impact of what we do down here, in view of the fact that this has historically been done by either in some of these areas, if Congress makes the selection—I'm not sure I would want them to make that selection in some other regions. I would rather have them make the selection themselves.

Mr. **Paddock.** In some other regions there is a question, a trick selection of a traditional village which muddies it up even further.

Senator **Abourezk.** I have got a question, Ray. Reading the area director's letter, he says there are four conceivable entities that could be recognized as representing the people in this area: the Central Council of Tlingit and Haidas of Alaska, Sealaska Corp., the village corporations pursuant to the Native Claims Act, and an IRA organization created pursuant to section 16 of the Alaska Reorganization Act. Now, as I take it, the village corporations would like that pushed up to a regional level of some sort—is that correct?

Mr. **Paddock.** Well, currently the village corporations, Senator, are involved in profitmaking ventures and were created in the villages for profitmaking purposes. The nonprofit problems in the villages are currently being handled by city councils, municipal governments, and so on, established under State laws, so a village corporation then becomes very ambiguous in the way it's currently being addressed in Alaska.

Senator **Abourezk.** Well, my question is, Ray, who do the villages want to represent them?

Mr. **Paddock.** Well, that question has not been addressed, and Senator Stevens' suggestion of a referendum might be the way that we could resolve this thing, but it would have to be through the assistance of the Bureau of Indian Affairs and the Congress.

Senator **Abourezk.** I see. The IRA organizations, you say, are mostly defunct?

Mr. **Paddock.** Yes.

Senator **Abourezk.** Is that only true down in southeast?

Mr. **Paddock.** We have one very active IRA corporation down here, the community of Klukwan, which is not organized under the laws of the State of Alaska but runs in fact its village by an IRA council. It's the only community we have like that.

Senator **Abourezk.** When you say "an IRA organization," that's pursuant to the 1934 act?

Mr. PADDOCK. Yes.

Senator ABOUREZK. When constitutions were formed?

Mr. PADDOCK. Yes.

Senator ABOUREZK. Then what you are really boiling it down to is, Do we chose between Sealaska Corp. and the Central Council?

Mr. PADDOCK. That's about what it amounts to.

Senator ABOUREZK. Now, what is the Sealaska Corp.?

Mr. PADDOCK. Sealaska Corp. is the corporation established under the Alaska Native Claims Settlement Act. The Claims Settlement Act named the central council as the authority to establish a profitmaking corporation.

Senator ABOUREZK. Sealaska is the profitmaking corporation?

Mr. PADDOCK. Yes.

Senator ABOUREZK. Well, why should Sealaska even come into consideration if they are a profitmaking corporation? Is it a democratic sort of thing?

Mr. PADDOCK. They are elected by shareholders, as any other corporation is. The only reason it comes into question, Senator, is——

Senator ABOUREZK. Are there non-Natives, non-Indians, in Sealaska Corp.?

Mr. PADDOCK. Yes; there are.

Senator ABOUREZK. What about the central council? I think you said the central council was elected by different villages?

Mr. PADDOCK. That's right, and communities.

Senator ABOUREZK. How is that specifically done?

Mr. PADDOCK. The election process—election notices are sent out. The people in turn meet and decide who they want to have run their local community councils for Tlingit-Haida. They in turn elect, or the villages also elect, delegates to the convention, based on population.

When we hold an annual convention, and every 2 years an election, from these delegates—it is handled very much like the House of Representatives, with representatives on a population basis. The body itself elects its own leadership.

Senator ABOUREZK. That's a fairly democratic process.

Mr. PADDOCK. Yes.

Senator ABOUREZK. Well, I have to confess that I don't know the history of the Alaska Natives all that well. I know in South Dakota that when a tribe chose its leader it didn't do it by ballot or by election, it was done by consensus, and there was a man that everybody thought ought to be leader and everybody pretty much agreed upon it and he would be the head man of the tribe or the camp or whatever. The 1934 act kind of changed that for everybody, and a lot of traditional Indians are not used to that yet and they refuse to recognize that kind of an election process.

Now, so far as selecting the Central Council of Tlingit-Haida, how much of a departure was that from the traditional way of doing things in Alaska?

Mr. PADDOCK. That has to go back to the early days of the Alaska Native Brotherhood. Shortly after the missionaries arrived in this country they impressed on our people how important it was to become expert in Roberts Rules of Order, and they did in very short order, and adjusted very quickly, and that has become the tradition in the last 75 years or 70 years now, that we conduct our meetings in that manner.

Senator Abourezk. Was the way the central council was selected, the procedure for that, was that chosen by the Natives here or was that forced upon them by the Government?

Mr. Paddock. The constitution was drafted by us and approved by the Government.

Senator Abourezk. I mean, is this procedure something the Indians wanted to do or was it something the Government wanted to do?—electing the council, the central council.

Mr. Paddock. I think it was a little of both. I would have to defer to John on that. He was the president at the time, when the rules of election were adopted and the constitution was adopted, and I am really not an expert witness in this.

Commissioner Borbridge. Pardon me, Mr. Chairman. Traditionally the Tlingit and Haida Indians, as a regionally based, ethnically identifiable language-speaking group, had not in fact in their earliest history had a regional type of a corporation, but rather were organized more around clans. However, the witness, Mr. Paddock, mentioned that the Alaska Native Brotherhood had formed in 1912 and as a consequence this earliest organization had been the first effort at organizing people on a regional basis.

With the success of the efforts by the Tlingits and Haidas to press their suit for the settlement of the land claim and to receive payment for lands which had been taken from them by the United States, it was necessary that a regionally acceptable type of organization be formulated and put together. Thus there was a combination of a desire by the Natives of Southeast Alaska to have a regional representative type of body, while at the same time meeting the pretty general requirements imposed by the Government that there should be such a body for the purpose of administering claim funds which the Natives were to receive. It was both on the one hand a desire by the Natives to take another further step in being able to meet the sophisticated needs and requirements to represent themselves, while at the same time having an organization that could be recognized by the Congress for the purpose of administering the land claims.

Senator Abourezk. So that's the central council—that's not Sealaska Corporation?

Commissioner Borbridge. That is correct. If I might comment further, just for clarification, Mr. Chairman—there is an ambiguity that derives from the following circumstance: during the lobbying that preceded passage of the Claims Settlement Act, one of the very real concerns that was expressed then and is expressed today was that the Claims Settlement Act should not be regarded as termination legislation, either directly or by inference. As a consequence, part of the language contained in that very act, and I want to recognize the role played by both Senators in that provision, was to assure that there should be no reduction of services that were being received prior to passage of the act by Alaska Natives because of the special relationship existing between the Alaska Natives and the Federal Government.

As a consequence, there are safeguards contained in there which would appear to place, for example, Sealaska, a business-for-profit corporation, in competition with the central council. In fact, if we are able to move toward the role where Sealaska does not participate directly as an administrator of the type of programs in which the central council is engaged and if this can be done in such a way that it is not interpreted as a termination approach to the Alaska Native situation, then I think we will have met the concerns that most of us feel.

This is why there is that balance that we are seeking to achieve between preventing termination legislation, while at the same time recognizing the right of the tribal governing body to be the administrative and recognizable entity for Southeast Alaska.

Senator Abourezk. All right, so far as how we might define a tribe, we are kind of faced—or at least I am right now, as I see it—with a couple of choices, neither of which is very desirable. I am not sure which is the least desirable. In my brief experience with the Bureau of Indian Affairs, it's always come to this, that one choice is that the Government designates who is going to represent the Indian people. In a way, that's wrong. As Ted said, that's nothing I want to get involved in, to say who's going to represent you. That's been part of the problems that we have seen in Indian affairs for too many years. And the second part of it is, the BIA in this letter, Mr. Antioquia has set down four different entities that they say something has to be done, and the BIA as I understand is proposing a kind of plebiscite or referendum to determine who it is.

[Off the record.]

Senator Abourezk. Well, I stand corrected on the second part of that. The BIA, as I am told, is trying to get the villages to designate, for the purposes of 638 only, the Indian Self-Determination Act——

Mr. Paddock. I think Mr. Antioquia will amplify on that a little more when he gets up here. There is still a problem though that this letter does create. It requires us, in order to contract, to seek the permission of these other entities by resolution, in order for us to contract, and that administratively is a waste of money, I think, also.

Senator Abourezk. Well, all right. This really brings us down to this one basic question, Ray—we are going to have to do it by amendment to the statute, and the question is then, who do we designate? We don't want to make the selection. We want the Alaskans to make the selection themselves, and how is that going to happen?

Mr. Paddock. Well, there are really two different problems, Senator. We are in the unique situation. The Central Council of Tlingit and Haida is a federally recognized Indian tribe by a great deal of precedence that we are offering in this package that we are giving you, legislatively and through the courts, through the IRS and through many other Federal entities, we are an Indian tribe and have been identified as one by the Area Director now.

The problem up North is entirely different, and I think that question will more properly be addressed to them and the Area Director of the Bureau of Indian Affairs.

Senator Stevens. Yes; but in terms of your situation, you could live with a Statewide solution which would leave it to a referendum within each region to designate which is the tribal entity which must be dealt with exclusively?

Mr. Paddock. Yes; we could.

Senator Stevens. I really think that Congress created this problem on a piecemeal basis. Trying to solve separate problems, we have created additional ones. I don't believe we should criticize the BIA in this instance— we all criticize them at times, but not in this instance, because each one of those entities is in fact entitled to tribal recognition. Because of individual problems, we have tried to solve them with particular legislation.

Mr. PADDOCK. Just as another example, when I was working on Senator Gravel's staff in Washington, we had to deal with economic development in villages. We currently have a contract with EDA to provide planning for Alaska. EDA has a hangup about what an Indian tribe is, and the Department of Commerce, EDA, always turns to the Bureau of Indian Affairs to find out where Indian land is. The Department of Commerce always comes up with something called the Alaska Native Townsite Act, which is so irrelevant as to almost be useless, and it has been very difficult for us as an Indian tribe to put in public works projects in our communities because of this 1928 act that is no longer relevant to our situation.

Senator GRAVEL. Is that the one that has the clouded title?

Mr. PADDOCK. Yes.

Senator GRAVEL. I think you answered the question that I had earlier about how you interface. You interface through your own council in the election process. What kind of experience do you have in interfacing, like with an IRA in Klukwan's case, what's your working relationship with them in divvying up competitively soft projects, if that's the way to term it?

Mr. PADDOCK. Well, Senator, the problem is not so much in who we deal with in the community, because it's never been clearly defined who we should deal with. In some cases, the public works projects, for instance, that we put in a community, we must work through the municipal corporation if it's on behalf of the community, the mayor, and city council. In other cases, we work through parent committees for Indian education programs. In other cases, we work through the IRA council which may be active or may be doing something on behalf of their community, such as in the case of Klukwan.

There is no set way that we do deal with everybody. In the case of some of our urban communities, we deal through the local T. & H. community councils, which is recognized in our constitution. It's never really quite the same or consistent.

Senator GRAVEL. There are really two functions being served here, Mr. Chairman. One is a profit function and one is a nonprofit, sociohuman function, while the other is a socioeconomic function for profit, and in view of that, my question is, as we move to solution of this, what's your judgment? Should the solution through definition seek to maintain the proliferation that exists of organizations and let you go have a hassle through the election process, which, you know, sounds great on the surface from a democratic point of view, but really prejudices the democratic process by having such a proliferation so that you have one type of form of a modus operandi in one area because you have got that historical development occasioned by laws of Congress, and in another area have another morphodite type of situation. Would you think that the solution should encompass some degree of cutting out and cleaning up the proliferation of organizations and trim up some of the legislative language or history that brought about these numerous organizations?

Mr. Paddock. I think it's simply a matter of clarification of who the U.S. Government recognizes as the entity to deal with. In that case, in a community they would decide for themselves what is regarded as the tribal governing body.

Now, in the case of Kake or Yakutat, for instance, where they are in the process of turning from an Indian community into a non-Indian community, it becomes very vital that we address this problem quite soon.

Senator Gravel. That adds another dimension to it, because a community can become a real city under the State laws and so you have now a new entity, a new legal entity, unrelated to the cultural characteristics or racial characteristics, which has a different posture in terms of law and also which has immediate entitlement as a contractual agent with respect to the Federal Government—is that correct?

Mr. Paddock. That's right.

Senator Gravel. I have no magic answer on the proliferation problem and I think I see the problem from a democratic point of view. I hope that that will develop itself in the course of the hearings. Thank you, Ray.

Senator Abourezk. Thank you very much.

Mr. Paddock. Thank you, Senator, for the opportunity.

[The prepared statement of Mr. Paddock follows:]

tlingit and haida indians of alaska

RAYMOND E. PADDOCK, JR.

TESTIMONY

FOR

SENATE HEARING ON THE BIA IMPLEMENTATION OF P.L. 93-638;
INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT OF 1974

Senator James Abourezk, Chairman
Subcommittee on Indian Affairs for the
Senate Committee on Interior and Insular Affairs

Mr. Chairman:

My name is Raymond E. Paddock, Jr. I am President of the Central Council of the Tlingit and Haida Indians of Alaska, a federally recognized Indian Tribe. I appreciate the opportunity to appear before the Indian Affairs Subcommittee to review problems we have encountered relating to P.L. 93-638, known as the Indian Self-Determination and Education Assistance Act.

It was the Central Council, under the leadership of John Borbridge; the assistance of Senator Ted Stevens, a member of the Indian Affairs Committee; and the assistance of Senator Mike Gravel, who was then a member of the Indian Affairs Subcommittee, which received the first contract for an Indian Tribe to manage the Programs of the Bureau of Indian Affairs Agency.

The experience we gained and subsequent testimony that we offered was instrumental in the development of P.L. 93-638. Now, since passage of the Self-Determination Act, rules and regulations implementing the Act have caused us serious problems which we would like to bring to the attention of your Committee for review. In addition, we will be offering testimony regarding other legislation passed for the benefit of Indian people. Such legislation is not always considered by the Indian Affairs Subcommittee, but irregardless, Indian people regard this Subcommittee, and its counterpart in the House, as their representative in Congress.

TRIBAL STATUS- P.L. 93-638

On July 8, 1970 President Nixon established the Policy of Indian Self-Determination. His message to the Indian pople reflected the desire of the Federal government for Indian tribes to assume the planning and administration of a wide range of programs traditionally administered by the Federal government. Congress responded by passing Public Law 93-638, The Indian Self-Determination and Education Assistance Act of January 4, 1975.

The Act extends to the Indian tribes the opportunity for full participation of Indian tribes in programs and services conducted by the Federal government for Indians. The Central Council of the Tlingit and Haida Indians, the tribal governing body of the Tlingit and Haida Indians, feels that for purposes of P.L. 93-638 it is the primary entity qualified to apply for and receive funds under the grant program. The Central Council of the Tlingit and Haida Indians, as a tribal governing body, feels that for the purposes of P.L. 93-638 it is the primary entity qualified to apply for and receive funds under the Act's grant program, contract for various federal programs, and for all other purposes.

The Central Council has, however, encountered a problem of major concern regarding the implementation of the Indian Self-Determination and Education Assistance Act. This problem lies in the interpretation, by the Juneau Area Office of the Bureau of Indian Affairs, of the definition of tribes for the purposes of contracting. Section 4(b) of the Act states that, "Indian tribe" means any Indian tribe, band, nation or other organized group or community, including any Alaska Native Village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians."

The Bureau of Indian Affair's interpretation of the definition of tribes for purposes of implementing P.L. 93-638 has caused a great deal of controversy in Alaska over which entity will be eligible to apply for and receive grants of the funds available. In a letter dated August 30, 1976 (this document attached as Exhibit A) the Area Director, BIA, has finally recognized the Tlingit and Haida Central Council as the tribal governing body of the Tlingit and Haida Indians of Alaska for the purposes of P.L. 93-638. However, the Bureau also designates the following entities in our Region as having tribal status equal to that of the Central Council under the Act:

(1) Sealaska Corporation
(2) Village corporations established under the Alaska Native Claims Settlement Act
(3) IRA Councils

Thus, individual Alaska Natives in Southeast Alaska could be members of four tribes for purposes of implementing P.L. 93-638.

Because these four entities have equal tribal status under the interpretation, any one entity wishing to contract to provide services to the villages in Southeast Alaska must obtain the approval of each other tribe as a prerequisite to the letting of such a contract. The four entities also have the power to veto the application of any other tribe. Aside from undermining the present tribal status of the Central Council, this decision will create unneeded conflict between entities competing for the funds at a time when unity is important. Being recognized as the governing tribal entity, rather than a confederation of small tribes, would be advantageous to both the Federal government and the Central Council, i.e. area-wide coordination of programs and less duplication of services at decreared cost to the government, etc.

The position of the Central Council is that it is the recognized tribal governing body for the Tlingit and Haida Indians of Alaska. This belief has been held by our Central Council as is evidenced by Article I. and Article V., Section 1 of the Constitution of the Central Council of the Tlingit and Haida Indians of Alaska (Exhibit B, attached). This position applies not only to the jurisdictional act of 1935, the Act of August 19, 1965 which provided for the organization of the Central Council, the 1970 Act providing for judgment fund distribution and the 1971 Alaska Native Claims Settlement Act, but to P.L. 93-638 and any future legislation dealing with the tribe of the Tlingit and Haida Indians.

The Central Council also takes the position that through the discretionary authority the Area Director has used in deciding which entities are considered as tribes for contracting purposes that the Bureau is again attempting to decide what is best for the Tlingit and Haida Indians. A method for allocation of funds has already been decided upon. Thus, the Bureau, through its action, is meddling in the internal affairs of a tribal governing body. The Central Council feels this defeats the purpose and the spirit of the Indian Self-Determination and Education Assistance Act.

Because these grant funds are the first that are to be administered under the Indian Self-Determination and Education Assistance Act in Southeast Alaska, the manner in which it is done will set a precedent. Therefore, it is important that the question of our status as the tribal governing body of the Tlingit and Haida Indians be put to rest in the minds of those with whom we must deal. We feel that due to our already recognized relationship with Congress and various Federal agencies that this question should have been settled long ago in the Bureau. It has certainly been dealt with previously, as Senator Gravel and former Central Council President John Borbridge can attest to.

To review briefly, for the Committee's benefit, I will give the historical background of how the question of tribal status has been dealt with.

The Alaska Native Brotherhood was organized in 1912 mainly as a fraternal and benevelant order, for the benefit of its membership. In Southeast Alaska this was the primary political organization for the Tlingit and Haida Indians. Until 1935, no provisions had been made for the formation of a central council for Tlingits and Haidas, although the ANB purported to be such an organization at times. On June 19, 1935 the Tlingit and Haida jurisdictional act was passed. Section 7 provided for the establishment of a central council, but procedures for setting up the organization were not given.

In the late 1930's the Alaska Native Brotherhood attempted to designate itself as the Central Council, but was restrained from doing so by the Department of the Interior because the membership of the brotherhood was not limited to Tlingit and Haida Indians. The present body calling itself the Central Council grew out of a meeting organized at Wrangell in 1941 for the purposes of selecting a claims attorney (see Exhibit C, Page 2, attached). The Act of August 19, 1965 amended the Act of June 19, 1935 creating a representative tribal governing body to deal both with the smaller organized groups of Tlingit and Haida Indians and the Bureau of Indian Affairs. The absence of such an organization had handicapped both the BIA and the Indians prior to passage of the Act. The 1965 Act set up a method for the selection of a representative group which could be dealt with and recognized as representing the Tlingit and Haida Indians both generally and for purposes relating to their claims.

In 1970 funds were appropriated for a judgment against the United States. The Central Council, functioning as the general governing body of the Tlingit and Haida Indians, was designated the responsibility for administering a relatively small judgment fund considering the numbers of our people and our land involved.

In 1971 the Alaska Native Claims Settlement Act was passed specifically designating the Central Council as the existing organization having exclusive authority and responsibility to implement its provisions, including securing the organization of a Southeast Alaska Regional Corporation.

The Central Council of the Tlingit and Haida Indians, as the general tribal governing body, is required by an Act of Congress to perform certain tasks required only of Indian tribes:

(1) Rules prescribing a democratic and representative method of election of delegates to the Central Council have been approved by the Secretary of the Interior.

(2) The Central Council's contract for general counsel must be approved by the Secretary of Interior under authority as provided by 25.U.S.C.A.81, which governs agreements made between persons and Indian Tribes.

Administrative action by other federal agencies also recognizes the status of the Central Council as the tribal governing body of the Tlingit and Haida Indians.

The Central Council has the tax status of an Indian tribe in relation to tribal income. Income tax statutes have not been applied against Indian tribes.

The Central Council's Office of Development Planning is partially funded through a planning grant from the Economic Development Administration. As a federally recognized Indian tribe, the Central

Council is not required to go through the A-95 Clearinghouse process pursuant to Part I, Section 2c of the A-95 Circular. The Office of Development Planning also operates under a grant from the Office of Native American Programs, Department of Health, Education and Welfare. The Central Council is regarded as an Indian tribe by the Department of Labor and receives a grant under Title III of the Comprehensive Employment and Training Act.

The Central Council was established by an Act of Congress because a body representative of all Tlingit and Haida Indians was required to deal with matters concerning the Indians and the Federal government.

The Central Council, as the tribal governing body of the Tlingit and Haida Indians, feels its status precludes the proposed tribal status of any other organization in Southeast Alaska for purposes of P.L. 93-638.

The Central Council is also the best equipped organization in Southeast Alaska for purposes of implementing P.L. 93-638 due to its history of contracting with the Bureau of Indian Affairs and other Federal agencies. The Central Council also has a background in serving the needs of all Tlingit and Haida Indians, not only in the villages, but in several urban communities.

The Central Council is the only organization in Alaska which represents all Tlingit and Haida Indians, both within and outside Alaska. The same cannot be said of the village or regional corporations, which represent their shareholders, or the IRA Councils, many of which are inactive.

All members of the Tlingit and Haida tribe can vote for representatives to the Tlingit and Haida convention. Those representatives will vote in a democratic process to select officers of the Central Council.

We are representative based on the rules of election which have been approved by the Secretary of the Interior.

Senator ABOUREZK. The next witness is Clay Antioquia. Clay is Area Director of the BIA for Southeast Alaska. Do you have anybody you want to accompany you—just for the purpose of the record?

STATEMENT OF CLARENCE ANTIOQUIA, AREA DIRECTOR, BUREAU OF INDIAN AFFAIRS, ALASKA

Mr. ANTIOQUIA. Mr. Chairman, Senator Gravel, and Mr. Borbridge, I am Clarence Antioquia, Area Director of the Bureau of Indian Affairs in Alaska. I am also a Tlingit Indian from Sitka, Alaska. I would like to introduce Mr. Joseph E. Kahklen, Jr., who is the Assistant Area Director for Administration in my office.

I commend you gentlemen for your concern and interest in the implementation of the Indian Self-Determination and Education Assistance Act in Alaska. As I am sure you are well aware, there is considerable interest in this act by the Native people.

Before commenting on the major issues relating to Public Law 93-638, I would like to briefly mention some of the major developments the Juneau area has that have led to our current situation.

Since President Nixon's indian message of 1970, we in the area have viewed Indian self-determination as the law of the land and began implementing many of the concepts immediately. Specifically, we established many school boards to provide local Native parent participation in the operation of our schools. We began involving Native people in our annual budget preparation and the establishment of our program priorities. We began consulting with Native people in the filling of key positions within the Juneau area, and we have taken a strong advocacy position on behalf of Alaska Native people on almost all issues relating ot the Alaska Native Claims Settlement Act.

The most significant development, however, has been our increased activity in contracting Bureau programs and services to Alaska Native organizations. In fiscal year 1969 we had five buy Indian-type contracts totaling approximately $331,000. In fiscal year 1970 we increased the number to 67 and at a value in excess of $1 million. In 1971 and 1972 the dollar value increased up to between $2 and $3 million. In 1973 and 1974, the value increased to between $5 and $6 million, and in fiscal years 1975 and 1976 we increased the number of buy Indian or self-determination-type contracts to over 90 within the State at a dollar value in excess of $13 million.

Some of the major self-determination type of contracts that we have entered into include contracting for four major programs to the Tlingit and Haida Central Council totaling approximately $2.3 million, two major programs to the Cook Inlet Native Association in Anchorage totaling approximately $1.1 million, and five major programs to the Tanana Chiefs Conference, and two social services programs to the United Crow Band and Fairbanks Native Association in the Fairbanks region totaling close to $2 million. In addition we have contracted for our total Johnson-O'Malley program, which exceeds $5 million, to many local organizations and regional organizations to administer the Johnson-O'Malley program.

Although we can cite the recent progress made in contracting with some measure of pride, it must be recognized that this was not accomplished with any measure of ease, either on the part of our office or on the part of Native contractors. It should be noted that most of this progress was accomplished prior to the passage of Public Law 93-638, and as such, we were required to use Federal contracting laws and regulations and procedures that were not designed for self-determination types of contracts.

For example, Federal contracting laws discourage "personal services" types of contracts, and yet in reality that is exactly the type of contracts that we are entering into with the Native organizations in Alaska.

Federal contracting laws generally presume that contractors possess the experience and administrative structure necessary to comply with all the contract provisions, whereas again in reality in Alaska many of the Alaska Native organizations and contractors have required a considerable amount of technical assistance to meet all the provisions, particularly the accountability provisions.

Although a limited amount of Bureau guidelines exist most of the guidelines are designed to apply primarily in the Lower Forty-Eight situations, and as a consequence both the Juneau area office and the Alaska Native contractors have had to interpret and apply the regulations and guidelines as best we could.

In spite of these and numerous other problems relating to contracting, I believe the record of progress we have made recently is indicative of the commitment our office has to contracting the operation of our programs to Native people. We continue to be committed to contracting because we are convinced that Native organizations can deliver Bureau services as good as, and in some cases better than, we as the Bureau can.

We viewed the passage of Public Law 93-638 with much optimism, hoping that at long last we would have a law and regulations specifically designed to address most of the problems we were experiencing in implementing self-determination concepts and policies. For the most part we still feel that the act and regulations will in fact accomplish these intended purposes.

Before the full benefits of the act can be realized in Alaska, however, the definitions must be clarified. What organizations are considered tribes, or tribal organizations, or tribal governing bodies? These questions are vitally important, because those entities identified as tribes and tribal governing bodies are granted considerably more authority and responsibilities under the act.

The current definition of "Indian tribe" in Public Law 93-638 includes any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act. Based on the definition, Alaska has at least 462 entities clearly identified as tribes. These include 12 regional profitmaking corporations, 225 village profitmaking corporations, 225 villages, which could be governed by an IRA-form of government or a traditional form of government, or traditional villages which recently have been incorporated as second-class cities.

In addition, several other entities also claim or are requesting tribal status, entities such as several of the nonprofit associations that are regionalized in the State, entities such as the Alaska Native Brotherhood or the Association of Interior Eskimos in Fairbanks, or the Fairbanks Native Association, and even some of the aforenamed cities named in the Alaska Native Claims Settlement Act.

This results in individual Alaska Natives being members of at least three different tribes, and conceivably several more. More importantly, however, is the question of which of these entities are in fact the tribal governing bodies, if any of them? Since the act did not differentiate between the villages, village corporations, regional corporations, and tribes, we must assume they are all of equal status.

Further, if regional nonprofit associations were intended to be considered as tribes, they too would be of equal status with all the rest.

This situation raises three basic issues, the first being, are the definitions as currently written appropriate, and second, whether or not they are considered appropriate, how can the act be implemented using the current definition, and third, if they are considered inappropriate, how can the definitions be amended to make them appropriate?

In our opinion the current definitions are not appropriate. Regardless, we must implement the act as best we can, using the current definitions, while at the same time developing more appropriate definitions to propose as amendments to the act.

Some of the basic problems we have with the current definitions are, one, the appropriateness of including "any Alaska Native regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act." We recognize that this same definition is included in other legislation passed subsequent to the Alaska Native Claims Settlement Act; however, we see this as being contradictory to the Claims Act, which states in section 2(b)—

> The settlement should be accomplished in conformity with the real economic and social needs of Natives . . . without establishing any permanent racially defined institutions, rights, privileges, or obligations without creating a reservation system or lengthy wardship or trusteeship, and without adding to the categories of property and institutions enjoying special tax privileges or to the legislation establishing special relationships between the U.S. Government or the State of Alaska.

Another problem we have with the definition is that the definitions rently defined, individual Alaska Natives are currently members of at least three separate tribes, and conceivably several more. Generally, it is very unusual that an individual Indian is a recognized member of more than one tribe. The major question this raises, however, is which of these entities truly represents the individual Alaska Native, and further, which entity should we as the Bureau deal primarily with?

The question is also raised as to whether or not Public Law 93-638 is in fact creating 462 or more additional "federally recognized tribes." Federal recognition of tribes generally connotates a special trust relationship between the United States and the tribe, including such actions as approval of tribal resolutions, tribal budgets and attorney contracts, and many other trust-related activities.

Another problem we have with the definition is that the definitions make no distinctions between the tribes, specifically, no distinction or mention of the relationship between "regional tribes" and "village tribes." For example, are village tribes and regional tribes in fact one tribe? Are village tribes subunits of regional tribes and therefore subordinate to the regional tribes? Are regional tribes subordinate to the village tribes?

We feel the inclusion of "any Alaska Native village" in the definition is appropriate. The primary reasons we feel this are that villages have traditionally performed substantial governmental functions and have been eligible for the "many special programs and services provided by the Secretary to Indians because of their status as Indians."

Villages have been eligible and received grants under the Bureau's tribal government development program, the Federal revenue-sharing program, Law Enforcement Assistance Act, and many other programs. In addition, we feel that one of the intents of the act is to provide tribes, regardless of size, an opportunity to determine for themselves how Bureau services will be delivered to them, and by whom.

We have no objection to contracting our programs to regional tribes or tribal organizations; however, the act and regulations require concurrence of village tribes as a prerequisite to the letting of such contracts.

Although the act is not specific regarding the manner in which tribes provide their concurrence, part of the regulations very specifically require positive tribal resolutions.

We recognize the logistic and the administrative problems this requirement places on regional tribal organizations in Alaska. We also recognize that regulations can be waived. We have not requested a waiver, however, of these regulations, primarily because that we feel that village tribes need to know the significance of their new tribal status.

Through the process of obtaining village resolutions by regional organizations, each village hopefully will better understand this new status. Second, if regional tribal organizations have positive resolutions in hand, this should eliminate any question as to their representation of the villages. We have attempted to assist the regional organizations in obtaining the village resolutions by extending several time requirements of the regulations and further by providing the necessary funds to accomplish the village travel necessary.

In conclusion, gentlemen, I would like to re-emphasize three major points. First, we feel the definitions in Public Law 93-638 should be amended for Alaska. Second, we feel that whatever form these amendments may take, that the tribal status of Alaska Native villages not be diminished. And third, in spite of the serious and complex problems that exist in implementing Public Law 93-638 in Alaska, the Juneau area will continue to work diligently to implement both the spirit and the letter of the law.

Gentlemen, I sincerely appreciated the opportunity to testify before this committee.

Senator Abourezk. What good would it do to change on your recommendation if we didn't diminish the tribal status of villages? To me that's where the anomaly is, right there. How do you resolve that problem?

Mr. Antioquia. Well, Senator, I did not propose a specific solution, but what I proposed is that one solution is being considered, that we try to preserve the status of villages as tribes. Now, we could do this if the relationship between the regions and the villages were defined, and perhaps this would be something that could be done through referendum vote, in other words, would the regions be in fact the entity with 17 subentities, or would the subentities be the primary—I mean the villages be the primary government entities by their own choosing and elect a regional spokesman and voice.

Senator Abourezk. You are Area Director for all of Alaska, is that right?

Mr. Antioquia. That is correct.

Senator Abourezk. Now, you might be in a better position to answer this question than anybody. Would you think that it would be acceptable to the Indian people of this State to define several regions that I think are already geographically defined for one reason or another, and to have a sort of democratic process by which each village—well, just like the TH Council, in fact, where each village elects a representative to the Central Council, would that be the kind of thing that would work all through Alaska?

Mr. Antioquia. I believe so, Senator. In fact, I don't know of any other approach that would work.

Senator Abourezk. Is this something that the Indian people would be behind almost 100 percent?

Mr. Antioquia. Well, the Alaska Native people that are familiar with this problem I definitely think would support that approach, primarily because it is unclear, and there is no single individual or single entity I think that is going to reach a definition that's going to be totally satisfactory to all, and therefore probably the most democratic way of doing this would be through referendum vote.

Senator Abourezk. Would you ask them if they would take that route?

Mr. Antioquia. Yes.

Senator Abourezk. Or would you give them another choice?

Mr. Antioquia. Well, certainly that's only one possible alternative.

Senator Abourezk. If we had a referendum, I think we would have to have more than one choice offered, though. What other choices could we include in a referendum of that nature? It seems that's where we're headed.

Senator Stevens. Well, I wouldn't mind having the group come forward and let the people decide what should be selected. For specific purposes, though, Senator, I do think that Mr. Antioquia made a good point, the fact that there are some programs where because of the local impact they could probably be better represented by tribal recognition and definition. Others by necessity ought to be regional on this.

Senator Abourezk. Yes. One regional one would be by 638. What other laws that are in effect would you have to apply to regional concepts?

Mr. Antioquia. Well, I think, Senator, that almost every law that has been passed in recent years, let's say the last 5 or 6 years, has had the same basic problem, that is, unclear definitions as to application in Alaska. I don't know of any one that has passed recently that apply to the Alaska Native people that would be exempt from being changed. I think they all have to be.

Senator ABOUREZK. Could I ask you a favor? If you would, within a week or two, try to put your thoughts together on that and put it in a letter to me in Washington, stating which areas you think ought to be regional and which areas you think ought to be local, which laws that would deal with this and so on. Try to give me a fairly detailed description of what you think would be acceptable to the Native people in each area, and it would be, I think, very helpful in our consideration as to what kind of amendments we ought to try to pass in Washington. Could you do that within—how much time would you need, a couple of weeks?

Mr. ANTIOQUIA. I could do that.

Senator ABOUREZK. OK, great.

Senator GRAVEL. In adding to that, I have some specific questions in writing, Clay, that I would like you to respond to in writing. I could ask them now but they are technical in nature, and they would help provide some technical data to make these judgments.

Speaking to the problem of proliferation, since we have several organizations, if we had a democratic election process with which they dealt periodically, the question would be, would there be one final election to choose the way to do it or would we permit continuing elections for people to make the choice as to how they want the services rendered? If that were the case, we would build into the situation in the Native community a constant degree of conflict where, if people didn't like the way an organization was running, they would grab hold of another organization and then ask for an election to compete with the other organization in vying for ability to render services, and you would have these groups, the Tlingit-Haida, forming a borough, forming a city, under Alaska law, or a tribe under what would be a new definition. So unless we address ourselves into this definition to a consolidation in some regard here to arrive at certain goals, we in definition would just make one more step here in this chain of historical confusion, and would leave the community with the right to have unbelievable conflict as they go forward. So I think that every step of the way, when you respond to his question, I would hope that you would amplify your thinking to consolidation and the irradication of existing forms, and to have an election process. That's something that would deal with it with some degree of finality.

Senator STEVENS. Well, now, Mike, with due respect, let's take one step at a time. Our problem now is which entity ought to be designated under self-determination on a regional basis. That entity has to be a perpetual entity because of the legal implications of contracting, of being an organization that will be in effect and not be subject to change by any changes of support and what not. The entity ought to be capable of being changed as far as the management rather than changed to another entity if there is any dissatisfaction. At the same time, I don't think we ought to confuse that with the problem of choice that some people have in fact, a village corporation under State law; they also have a village corporation under the Alaska Native Land Claims Settlement Act. Some of them still have an IRA village; some of them go even further and have a regional organization which has no standing in any law that I know of. Some have an additional organization, like T. & H. has been recognized under ANCSA; some have another organization which is statewide in nature, which is the ANB. I think we have to go step-by-step in our consolidation and not force consolidation, but bring about consolidation merging where it is in fact a process of self-determination.

We could mandate, you know, that there can't be more than one village for a particular area, but to do so might well deny them some of the benefits of the existing law. I think you ought to have a staff analyze each one of these entities—type of entities—and how they impact each particular area, and give us some advice as to what would happen should we, for instance, say there are no more IRA villages in this State—they are all converted into ANSCA villages. If we did that in some places, we could effect consolidation and efficiency. I am not sure whether we would cause some complications with regard to loans or outstanding under the Revolving Fund Act, whether we cause complications under the New Financing Act, whether there would be any loss of benefits under Indian Health Service or under any of the existing laws. That's going to require some analysis.

But the first step we've got to get right now is under self-determination of regional basis, what is the entity and, for myself, I would favor some sort of procedure whereby each region would be given a period of time for any competing organization to come forward and have a referendum selecting which organization, in fact, is to be the entity that BIA must deal with under the self-determination act.

Senator GRAVEL. I would just only add that I think the Natives should be able to decide, and decide with some finality. But I think we should also recognize that if we don't solve the other problem in this definition, then we really haven't advanced the situation very much beyond where it is right now.

Senator STEVENS. The mechanism for this solution, Mike, is different from the solution as far as I'm concerned. I think self-determination means that we must create a mechanism for a solution for the problems and if one particular area wants to solve their problems, they may do so under the self-determination concept.

Senator GRAVEL. I would appreciate it if you would, in responding to Senator Abourezk, if you would deal with the proliferation problem because you face it all the time and give us the benefit of your counsel in that regard. What would be the possible effects of consolidation if one took place. And also address the problem of the ratio characteristics of one form of human quasi-governmental activity as opposed to the nonracial characteristics of a choice of going to a city or a borough underneath the State law as it presently exists since you have to deal with them in some capacity.

If you could broaden it out to deal with all of those concepts, then we could get chance to look at the matrix of this and see which way it would lead us.

Senator ABOUREZK. I want to make it clear—John, before you start—I want to make it clear that we're asking for, Clay, for your opinions and we are going to understand that this is not necessarily the opinion of the Indians——

Senator GRAVEL. Or BIA. It's basically use of your experience.

Senator ABOUREZK. Or BIA. We're just asking for some ideas from you and that's exactly what this amounts to. These hearings where we will be listening to Indian people, village people themselves, and further hearings that will be held before we ever finalize any legislation. We'll get as best we can a cross-section of Indian viewpoints all through Alaska. So I just want to make it clear to everybody that might be concerned that we're just asking BIA. That's not exactly what we're doing.

Commissioner Borbridge. Mr. Chairman, that was comment No. 1.

Senator Abourezk. I took care of it for you.

Commissioner Borbridge. Mr. Chairman, I would like to ask Mr. Antioquia, is the policy which seems to be a response to the proliferation question in the Indian Self-Determination Act; namely, that of requesting local concurrence so that if a regional entity recognizes a tribe, let's say the central council as an example were to go ahead, there ought to be local concurrence. Clay, do you feel that this is being advanced as a solution relative to the peculiar or singular situation in Alaska, or is this an expression of the policy overall of the Bureau reflecting how the Bureau is approaching this matter.

Mr. Antioquia. Commissioner, I see this as being a bureauwide policy, primarily in recognition of the Federal Government of the status of tribes and tribal governing bodies. That rather than assuming what the tribe wishes or what would be best for a tribe, that we get a positive indication from the tribe as to what direction they would like to go in any particular matter as relating to 638. So, it is a matter of national policy as opposed to local.

Commissioner Borbridge. I mentioned this, Mr. Chairman, because I think that the implications then certainly extend far beyond 93-638 in that on the one hand we have certainly what I share with you as being a very important element, and that is self-determination on the local as well as on the regional basis.

At the same time, all of us feel a concern and certainly the tribal governments feel a concern that whatever determinations the Congress may be moving toward—and this certainly came through in a number of hearings held by the American Indian Policy Review Commission, that they be determined in the light of their impact upon tribal government and that they be assessed in terms of whether they specifically strengthen tribal government or whether they in fact erode the basis on which tribal government has operated in the United States.

Thus, I see a specific Alaska concern, but, Mr. Chairman, I also see a broader concern. Certainly the way in which we approach it here and its reflection of the beginnings of Bureau policy on this matter are going to have a very definite impact on the ability of tribes to proceed and to continue to function as contracting or other bodies in fulfillment of their usual functions as a tribal governing body.

Senator Abourezk. Any other questions? Thank you very much for your appearance. We'll be looking forward to hearing from you on these suggestions. Thanks, Clay.

Senator Stevens. May I add to that request that you examine into the question of villages that are not participating under ANSCA as they would be impacted by regionalization of any self-determination mechanism?

Senator Abourezk. The next witness is Ethel Lopez. Is Ethel in the room? Are you Ethel Lopez? Would you come up to the witness table first of all, please? I would like to welcome you to the subcommittee hearing. Do you have any statement you want to make, or would you just want to answer a question or two, Ethel?

Ms. **Lopez.** What do you want me to do?

Senator **Abourezk.** Let me just ask you a question or two. I'm curious to know, what is the length of time that it takes for your community—you're from Petersburg, right?

Ms. **Lopez.** Yes.

Senator **Abourezk.** What is the length of time it takes for your community to receive the money it needs to pay employees under the Johnson-O'Malley program?

Ms. **Lopez.** Two to three months.

Senator **Abourezk.** Two to three months?

Ms. **Lopez.** Yes.

Senator **Abourezk.** Why is that, do you know?

Ms. **Lopez.** Well, we go through this subcontract to get the money from BIA and it has to go up to the Alaska Federation of Natives and to Petersburg. I have a photocopy over here that I would like to hand in so it can go in the record.

Senator **Abourezk.** Yes; we'll put it in the committee files. We have it here. The staff already has it, Ethel. Let me ask you another general question: What in your view—if you know—what does your community think of T. & H. Council operating as a tribal governing body to administer social services under Public Law 638?

Ms. **Lopez.** Well, we think that there won't be so much——

Senator **Abourezk.** Do you think it ought to be done on a regional basis or on a village basis, administering 638?

Ms. **Lopez.** Regional.

Senator **Abourezk.** Who do you think ought to do it then?

Ms. **Lopez.** Central council.

Senator **Abourezk.** T. & H. Central Council. Do you think that most people in your community feel that way?

Ms. **Lopez.** Yes.

Senator **Abourezk.** Is there anybody that thinks somebody else ought to administer it?

Ms. **Lopez.** No.

Senator **Abourezk.** Or at least you've never heard anybody.

Mr. **Lopez.** No. We've been sounding people.

Senator **Abourezk.** We certainly want to thank you for coming up and answering our questions. It's been very helpful and we appreciate it. Thanks an awful lot for appearing, Ethel.

Senator **Gravel.** Thank you.

Senator **Abourezk.** The next witnesses are Isabelle Brady and Barbara Lewis. I'd like to welcome both of you here today. Do you have anything you want to say first, or do you just want to answer questions?

Ms. **Lewis.** Yes, sir. I have prepared a short two-page statement, Honorable Senators and Commissioner Borbridge.

STATEMENT OF BARBARA LEWIS, GRAND CAMP PRESIDENT, ALASKA NATIVE SISTERHOOD

Ms. **Lewis.** My name is Barbara Lewis. I'm grand president of the Alaska Native Sisterhood and indeed honored and humbly acknowledge the fact that I'm the one who will represent our organization at this time.

The Alaska Native organization was formerly organized in 1912. Prior to this, the villages were governed by chiefs and subchiefs.

To prevent confusion, either the Eagle or Raven Chief was selected to speak for the villages. Regardless of which was chosen, the chief on the opposite side had equal status. Each village handled their selection in this way, so we had a number of chiefs in southeast Alaska. Each of their village commitments also was respected and recognized.

Our forefathers realized that if we were to receive equal services in the areas of health, education, labor, social services, the law, and right to vote, we would have to establish elected positions from within our clan system.

Historically our Alaska Native Brotherhood and Alaska Native Sisterhood have always been the one to monitor and evaluate the Bureau of Indian Affairs, Public Health Service, State and other Federal programs delivered to our communities. Of the 21 communities recognized by virtue of the Land Claim Settlement, Southeast Alaska Corporation, 18 of them have always had ANB and ANS representatives. Of the other three, one has just formed a camp.

Our people are presently working with the Alaska Native Brotherhood, the Alaska Native Sisterhood, the Tlingit and Haida Central Council, the Sealaska Corporation, profit and nonprofit village corporations, Indian Reorganization Act (IRA), and the other State and Federal programs.

Each of the above have a distinct role in delivering programs to our people. All of us are dedicated to bridging the gap in delivering equal services to our urban and rural Natives.

If we are to continue to direct the social, economic, and cultural changes to the mutual benefit of all the Alaska Natives presently living in southeast Alaska, we need a change in the definition of "tribe" and "tribal governing body" as it is presently written in the Indian Self-Determination Act.

We believe that an amendment to this section is necessary to recognize the fundamental differences between Southeast Alaska Native structure and other Native American organizations who are not tribal entities.

In examining the changes necessary in the Indian Self-Determination Act, we ask that you continue to make every effort to consult with our elected leaders and that they be given time to meet with the people in the villages and that the villages be given time to meet with the Bureau of Indian Affairs and the Indian Health Service.

In closing, on behalf of our organization, I extend an invitation to you to attend at any time our local ANB and ANS meetings and our annual convention. Thank you.

Senator Abourezk. Isabelle, do you have anything prepared?

STATEMENT OF ISABELLE BRADY, PRESIDENT, TLINGIT AND HAIDA CHAPTER, SITKA, ALASKA

Ms. Brady. Yes, I do. I have a paper in here that was drawn up by Peter Azure. He could not be here. He is the president for Sitka Community Association. In spite of the short notice about the hearing, I was able to contact several of the board members from the community association, the local Tlingit and Haida delegates and also the Shee Aitka members. I have a letter of endorsement for what Pete has drawn up. I hope you won't ask me too many questions because I'm not sure what Pete's thinking is on a lot of it.

Senator **Abourezk**. I just have a couple of questions for both of you.

Ms. **Brady**. I would like to present it anyhow.

Senator **Abourezk**. If it's his statement, we'll just put it in the record.

Ms. **Brady**. No; this was brought up by Ellen Lang, president for Alaska Native Brotherhood, and myself, and Barbara Lewis and the people concurred with what was written in them. But we did some brainstorming on some of the basic factors that are here and I did talk to some of the people and I would like to speak to some of the issues that are mentioned in the paper, if I might.

I would like to, at this time, express my appreciation for being able to be here. I am the president for the local Tlingit and Haida chapter in Sitka.

The Sitka Native Community is pleased to have this opportunity to express its concerns with regard to the Indian Self-Determination and Education Assistance Act. Peter left this to me because he knew I would go to the different people and try to get some input from them and there were some changes after meeting with Shee Aitka and the Sitka Community Association.

Over the past several months, there has been considerable discussions related to the meaning of and inherent implications of the act. To a large extent, discussions have been positive in that many people view enactment as a substantial step toward Native people having the opportunity to decide their own destinies. While most discussion has been positive, it must also be recognized that there continues to be concern on our part related to the actual implementation of the act.

Of primary concern is the fact that the act was written for use in the Lower Forty-Eight where most tribes are governed by tribal councils. Perhaps the act is adequate for the tribal council form of government.

Since the tribal council form of government is not the form of government traditionally used by the clans and subclans of the southeastern Alaska tribes, we are having great difficulty in determining our legal "tribal governing body" in accordance with the act.

We in Sitka do not have a tribal council. So, to whom do we go for eligibility to contract services? We have been advised by the Bureau of Indian Affairs that the Sitka Community Association, created in 1938 through the IRA, is the legal tribal governing body for Sitka, and is eligible to receive self-determination grants.

I should have stopped on the first sentence there because I believe that Bill Truitt brought up an interesting point here about the Lower Forty-Eight Indians which I hadn't really given much thought to the fact being that some of the Indians were terminated by request and some were terminated by the Government.

The point that he brought up was the fact that we in Sitka are treated as permanent Indians because we are urban. And the reason being was that that was originally all Native village, and now we are urban and therefore there are many things that are happening to the community of Sitka because we are urban and that's why it was brought up.

So far, the Sitka Community Association has submitted an application to the Bureau for a self-determination grant and has endorsed by resolution the Alaska Native Brotherhood Camp No. 1, Inc., application to contract a Johnson-O'Malley program directly from the Bureau.

We have been assured by the Bureau that both applications are in order, that the JOM plan is approved and can expect approval by our self-determination grant application. These two applications are the first to be submitted under this arrangement, so we cannot realistically assess the appropriateness of this arrangement. It is our hope that this arrangement will be satisfactory to all concerned.

I might mention that I do work for the Alaska Native Brotherhood Camp No. 1, the director for the ANB education program, which is funded by the Johnson-O'Malley and the Indian Education Act. The Sitka School District opted to subcontract the Indian eduction funds to the ANB and we felt that that was really a self-determination in every essence of the word because we were totally responsible for the funds.

In southeast Alaska we are faced with many of the same problems and restrictions which prohibit the participation of urban Indians in self-determination programs. In Sitka, we have an Indian community composed of Tlingits, Tsimpseans, Haidas, Eskimos, Aleuts, Athabascians, Siouxs, Navajo, and most other tribes from throughout the Lower Forty-Eight. We cannot exclude other people or other tribes from the benefits of programs in our community.

In light of the aforementioned views and observations, we offer the following recommendations: (1) Careful consideration be given to the uniqueness of southeast Alaska's traditional system of governance. This has been mentioned before. We're mentioning here the Alaska Native Brotherhood. We feel that each and every tribal organization has a unique place and does serve its needs at central council and does have a place in southeastern. Alaska Native Brotherhood does and all the organizations as such.

(2) Consideration be given to special regulations for Alaska and/or southeast Alaska in regard to the act.

(3) Amend the act to clarify which Indian organizations are eligible to participate—and this has been brought up already.

(4) Clarification of Indian tribes for Alaska in regard to the Land Claims Settlement Act as referred to in the act. That I'm not sure of, but this was brought up by a SheeAitka Board member.

(5) Local—community—control be placed as the top priority in the implementation of amended regulations. Because of our situation in Sitka, that was one of the things we felt was one of the top priorities that we have because our dealings with the Indian Education Act and the Johnson-O'Malley.

(6) That there be adequate input from village and community residents in the establishment of regulations, amended. That is, before any action is taken, that you go to the grassroots people finding out what they really want instead of just taking for granted any of us

that are so-called leaders speak for our people. Get it from the ground up.

(7) And that appropriations be increased to facilitate the implementation of amended regulations for Alaska and/or southeast Alaska. The objectives or goals of the Indian Self-Determination Act are well spelled out but the funds just aren't there. For example, we are in the process of hiring for our Indian education program and our Native people do not qualify and this is one of our primary concerns. In all other funding, we try to get our leadership up in our local—this is specifically for the Sitka area that we're talking from.

In conclusion, I am compelled to say that I believe that while there may be many advantages to considering a regional entity as the legal tribal governing body for southeast Alaska, it must be realized that that philosophy would be highly unrealistic and would ultimately become a destructive force among the Native and Indian people of southeast Alaska.

For Sitka, if the Sitka Community Association, IRA, is recognized as a legal tribal governing body and is allowed to revise its method of selecting board members to include representatives from other Native organizations in Sitka, we will have a real chance of participating in self-determination efforts and will make the most of them.

Thank you for your time and I hope that you will include us in further discussions. We are anxious to play a part in any formulation of regulations under which we must operate. Signed Peter Azure.

Senator ABOUREZK. So I take it from your testimony that the community of Sitka would be opposed to any regional group of any kind administering the self-determination. Is that an accurate impression?

Ms. BRADY. Yes, because we feel that Tlinget and Haida does have a place. We're not opposed to what the central council is doing but because of the success we have had so far with the Indian Education Act and now we're working on the Johnson-O'Malley, we feel it would be watered down to a great extent if we aren't able to make our own decisions at a local level. And because of the uniqueness of Sitka as an urban community. It was mentioned all the different ethnic groups that we have in the area.

Senator ABOUREZK. In other words, you think it would be much better if the community itself handled its self-determination contract?

Ms. BRADY. We're speaking for Sitka.

Senator ABOUREZK. That's what I mean.

Ms. BRADY. Yes.

Senator ABOUREZK. If we came to some kind of a referendum idea, you think there ought to be a choice involved in the referendum that any community could elect out of a regional? Say that 90 out of 100 communities wanted a regional government to administer self-determination for them, should the other 10 be allowed to administer themselves if they want to?

Ms. BRADY. I think so. Like I said, there is a place for Tlingit and Haida. I'm not saying we don't want them.

Senator ABOUREZK. I understand that.

Ms. BRADY. I wanted that to be clearly understood.

Senator ABOUREZK. I mean whatever criticism you have of the regional government, I think is very valid and ought to be expressed and I appreciate your doing it.

Let me ask Clay Antioquia, administratively, that kind of an election provision, electing out, would that be any more difficult than anything else?

Mr. **Antioquia**. Yes, Senator. At some point in time we have to determine how much resources we have available to us to administer programs in a specific agency. If we go one contract, there's no major problem. When we get two, then how much does it increase in administrative costs to administer two contracts? We look at that and as you go on, the administrative costs continue to grow.

Senator **Abourezk**. How much?

Mr. **Antioquia**. We don't have exact figures, but I would say that probably by splitting one agency in two, we would at least double the cost of administration of those same programs.

Senator **Abourezk**. Double the cost?

Mr. **Antioquia**. Yes; I believe there are some start-up costs and wind-down costs that have never been considered but they are a reality.

Senator **Abourezk**. I don't know that I would agree with you necessarily on that figure on doubling the cost, but it certainly would increase some. I don't know how to measure it. But let me say this; in my experience, at least in South Dakota, the more decentralized tribal government gets, the better it is. The more people govern. I detect that same thing from these folks from Sitka. If the Indian people want a regional government, I think that's fine. If they would rather have a decentralized, more localized government, I think that's fine, too. We want to hear those expressions and certainly appreciate hearing them. But I guess it does further complicate this problem of how we're going to do it.

Senator **Gravel**. Can I just pose a question here? Isabelle, if you had a clearinghouse, you see, would you feel that you are capable of applying directly with the Federal Government, or do you think that maybe a clearinghouse for the region might have some benefit?

Ms. **Brady**. I think we could deal directly with the Government. We're doing that now with the Bureau of Indian Affairs. One of the problems is subcontracting through another agency. The school district has been very good about not taking out any costs; they just subcontract all the funds to us directly from Washington, D.C. I remember John Borbridge mentioning on self-determination in our Tlingit and Haida convention that the only way we're going to learn how to determine our own destiny is by doing it through our mistakes. I think this is one of the reasons we're so strong in this area.

Senator **Gravel**. There's a bureaucratic cost somewhere. Either it's picked up at the BIA level with an increase in forces to administer the numbers to get it down to the lower level, or that bureaucratic cost could be transferred over to what a regional Native group could do. I just raised that as a thought and that might be where we still could get the benefits of the local determination, but also transfer rather than build up a Federal bureaucracy, build up a bureaucracy at a regional level that could take advantage of some efficiencies that might be there.

Ms. **Brady**. I would like to make it a matter of record, too, that we did not receive any Johnson-O'Malley funds last year under the

AFN. I think this is the first time everybody has got on a per capita basis.

Senator Abourezk. Have you done any contracting yet under Public Law 93–638?

Ms. Brady. No, we haven't.

Senator Abourezk. Has anybody in the room done it? Clay, has anybody?

Mr. Antioquia. We have several applications that are in the process, Mr. Chairman, and we will have some in very short order.

Senator Abourezk. Who are making the applications? Are they villages or what?

Mr. Antioquia. There are several contracts that currently exist that must be renegotiated under the provisions of Public Law 93–638, such as the Central Council, Tlingit and Haida.

Senator Abourezk. Have any villages applied?

Mr. Antioquia. Yes, there will be. We have contracts with several villages to administer general assistance programs for instance.

Senator Abourezk. What are those?

Mr. Antioquia. What, villages?

Senator Abourezk. No, general assistance programs—what do you mean?

Mr. Antioquia. Those are the welfare grants to eligible Indian families and individuals.

Senator Abourezk. That's going to be administered on a village level?

Mr. Antioquia. Yes.

Senator Abourezk. Is that going to present a problem?

Mr. Antioquia. It hasn't in the past. We've had several in operation the last several years and continue to.

Senator Abourezk. That's all these people are asking, to continue that sort of thing.

Mr. Antioquia. Mr. Chairman, we have no problem with that. When I mentioned the administrative costs do increase, that has not impaired us from entering into contracts with individual communities and villages. In fact, we will have contracts in Sitka.

Senator Abourezk. Before that village contracting application, how were you handling it then out of the Bureau? How was it being administered?

Mr. Antioquia. The only one that we're currently developing is the Johnson-O'Malley contract in Sitka and, as Ms. Brady pointed out, Sitka did not get an approved contract last year although they did have one in the previous years.

Ms. Brady. It was through the Tlingit and Haida; we couldn't get it through the AFN.

Senator Abourezk. No; I mean, how was the BIA doing the welfare program at Sitka, for example, before?

Mr. Antioquia. Those programs were contracted to the Central Council of Tlingit and Haida.

Senator Abourezk. They were doing welfare prior to this time?

Mr. Antioquia. Yes.

Senator Abourezk. Now they were standing in the place of an agency—is that right?

Mr. **Antioquia.** It is intended that they will continue to provide that under the provisions of Public Law 93–638.

Ms. **Brady.** Sitka has applied for a grant under self-determination.

Senator **Gravel.** Just to pursue that, won't that be in conflict, or won't there be a multiplicity of action with respect to what the Tlingit and Haidas are doing and what the local community could do through their organization? Suppose they both apply?

Mr. **Antioquia.** Senator, there would not be over the social services programs, as I understand there is no competition for providing that service. There is question, however, on the Johnson-O'Malley program.

Senator **Gravel.** Supposing there were? If they had the competence to administer the Johnson-O'Malley, they could certainly have the competence to administer others. And suppose they decided that because maybe of a personal conflict between local and a regional group, then they turn around and apply to provide that service locally. What would happen then?

Mr. **Antioquia.** We have dealt with that issue by requiring the village sign off before regional associations wish to contract with us. If they do not have the sign off by the particular community, then we will not contract with them for the services in that community. That community can either receive it from the Bureau or contract with us directly.

Senator **Gravel.** So that goes to the hub of the whole issue here of implementing the act so that when you have a conflict, what happens? Nothing happens. It stays with the Federal Government.

Mr. **Antioquia.** No, it doesn't, Senator. The villege can contract with us directly, which we will in fact do. But such as the case of the Johnson-O'Malley program——

Senator **Gravel.** What would you do—would you be prone to rule in favor of the local as apposed to the region organization?

Mr. **Antioquia.** I guess it could be viewed that way; yes, Senator.

Senator **Gravel.** That's the policy that if you've got to adjudicate between a regional interest, through Tlingit and Haida, or a local interest, like Sitka, you would automatically rule in favor of the local interest?

Mr. **Antioquia.** Yes, sir. One of the major issues that exists right now is the fact that we are requiring concurrence at the village level prior to entering into a contract.

Senator **Gravel.** I understand that.

Mr. **Antioquia.** If the regional organization does not have the concurrence, then we have the option of either providing the services directly to the community with Bureau people, or contract with it directly. So that is how it has been dealt with.

Mr. **Borbridge.** What entity locally would be asked to concur as representative of the village interest if, in fact, there are several such entities in that village?

Mr. **Antioquia.** I would have to answer that, Commissioner, in two different veins, one is statewide generally and then the other is southeast specifically.

Statewide generally, there are several entities that in fact could be the tribal governing body at the local community level. One would be the IRA form of government if that exists in the community. That would be first priority inasmuch as IRA organizations have consistently been recognized by the Government. If no IRA organization exists in the village, then we would recognize traditional forms of government if that was the form of government within the community, that's a second priority. The third priority, if neither IRA or a traditional form of government existed, we would recognize a second-class city if that second-class city was in fact a traditional village predominantly and only incidently designated as a second-class city. So, in effect, we're still talking about traditional village and traditional forms of government. Without that type of entity, then the fourth entity we would recognize at the village level would be a village profitmaking corporation by virtue of the fact they are named clearly in the definition as a tribal entity. Those are the entities we would deal with generally at the village level.

Senator Gravel. That's quite a problem at that level.

Mr. Antioquia. We realize that this may be arbitrary but that was the rationale.

Senator Gravel. I'm not faulting the arbitrariness of it. You're just faced with—I mean, you've got a historical situation that's developed and I certainly would not fault the arbitrariness of it. It's really astounding when you begin to see not only the proliferation regionally wide but you just received a litany of proliferation right at the local level. And that's the point I was addressing to before Mr. Chairman. If we don't solve that problem and just try to define powers here, then we've really done a disservice to the people because all we've left in their hands is the ability to squabble and to never bring to solution a form of action. I think we would be derelict in our duties if we didn't go the full length of it. Thank you.

Commissioner Borbridge. Mr. Chairman, I have one question, if I may, please ask our ladies who have presented some very helpful testimony and it's going to receive full consideration, I would like to ask this question. There's no question, as you stated, you believe in the importance of self-determination on the local level in that the local provision of services certainly as they pertain to education for example, is better done at a local level. Do you feel that there may well be, if it's spelled out adequately, areas of service, some of which are better provided locally and some of which may better be provided on a regional basis?

Ms. Brady. I certainly do. I would like to give an example of that because I thought about this for quite a while. Central council could provide a total Native assessment for southeast we've never had to find out where we actually are educationally and we need a southeast research area so we can project the direction that we should go in southeastern. I feel that they definitely could contract for services along those lines for continuing higher education. Very definitely. And I feel that those are really paramount needs in southeastern right now so that we can find out which direction we are going, specifically because I feel that Johnson-O'Malley IA funds will not go on forever and we need to try to project what's going to happen when these funds cease flowing.

Senator Abourezk. We want to thank both of you very much for your testimony.

Senator Stevens. Let me apologize for having to leave. I had a call to call my office in Anchorage and went out to call them and couldn't understand why no one was there until I realized that the time difference was 2 hours rather than 5 hours. They are all out to lunch so I had to go again.

I appreciate your point and I think you've got a very valid point about the necessity for preserving as closely as possible local self-determination. I also think we've got to keep in mind the ability to handle a problem that you just mentioned, and that is what happens when and if the Federal support starts to wane, will the local entity have the ability to continue the type of effort that is required, or will there be a greater ability on a regional basis particularly in view of the land claims settlement and the importance of the regional corporation in that entity as a long-term financial arm for the area. It's really a serious question and I think it's going to be the acid test of self-determination in Alaska how that question is answered.

Ms. Lewis. Mr. Chairman, if I might respond to that. This is one of the things that is a vital concern to our people on the local level. Mentioning the general assistance program as an example, it's not just—the general assistance program is not a complete social services program within the Tlingit and Haida Southeast Agency at this time. Our people also have to deal with the State social services program and the Indian health service social program.

We have, for instance, three social workers traveling from village to village to determine which agency is to be approached with their problem. One of the things that's happening at this time is the statements have been made that the land claim and the Indian Self-Determination Act instead of helping us to advance in our self-determination, has indeed divided us and this is not true.

There are some areas where we have had difficulty in determining which agency would be best able to handle a village problem. A lot of problems stem from BIA, State, and T. & H. saying, "We don't have the moneys to handle that particular portion so you'll have to go somewhere else." And the people on the local level are working with all of these organizations.

We are not in opposition with the Bureau of Indian Affairs, we are not in opposition with T. & H. We have worked long and hard to bring our people together so that we may utilize these agencies.

We have recognized that we've advanced to the ANB/ANS, to the IRA and T. & H. and Sealaska and each has its own distinct separate programs. But while we are spending the time waiting for a referendum to be done on the definition of tribe, we are indeed losing programs under the Federal and State system.

If per chance the Federal and State program dollars are to continue to be withdrawn at the rate they are withdrawn, the local level will not be able to handle it. We do not have the administration that the Bureau of Indian Affairs and the Public Health Service. It's our understanding that the BIA and the PHS are to do everything in their power to assist us in becoming self-determination, and it is true there are some programs that are best serviced at the regional level and some at a local level.

Senator Abourezk. Once again, I want to thank you both very much.

Ms. Lewis. Thank you very much.

[The letter and paper referred to by Ms. Brady follows:]

SHEE ATIKA, INCORPORATED
P.O. Box 578
Mt. Edgecumbe, Alaska 99835
Phone - (907) 747-3534

September 2, 1976

The Honorable James Abourezk
Chairman of Sub Committee on Indian
 Affairs
United States Senate, Capitol Hill
Washington, D.C.

Dear Senator Abourezk,

The Board of Directors of Shee Atika, Incorporated (the Alaska Native Claims Settlement Act - Sec 14 [h]3 urban corporation for Sitka) have asked me to express the full support of Shee Atika for the concepts and specific recommendations made in testimony before you September 2, 1976 in Juneau by Mrs. Brady of our local Tlingit & Haida Chapter. We would further like to endorse the written statement submitted by Mr. Azure of the Sitka Community Association (I. R. A.).

Please consider their recommendations in behalf of the Native people living in and enrolled to Sitka and all Sitka Native organizations.

Very truly yours,

Ethel Staton
Ethel Staton
Vice President

cc: Senator Stevens
 Senator Gravel

September 2, 1976

Senate Hearing on the BIA Implementation of PL 93-638

Indian Self-Determination and Educational Act of 1974

The Sitka Native Community is pleased to have this opportunity to express its concerns with regard to the Indian Self-Determination and Education Assistance Act.

Over the past several months, there has been considerable discussion related to the meaning of and inherent implications of the ACT. To a large extent, discussions have been positive in that many people view enactment as a substantial step toward Native people having the opportunity to decide their own destinies. While most discussion has been positive, it must also be recognized that there continues to be concern on our part related to the actual implementation of the act.

Of primary concern is the fact that the Act was written for use in the lower "48", where most tribes are governed by tribal councils. Perhaps the Act is adaquate for the tribal council form of government. Since the tribal council form of government is not the form of government traditionally used by the Clans and Sub-Clans of Southeast Alaskan Tribes, we are having great difficulty in determining our legal Tribal Governing Body in accordance with the ACT. We in Sitka do not have a tribal council. So, to whom do we go for eligibility to contract services? We have been advised by the Bureau of Indian Affairs that the Sitka Community Association, created in 1938 through the IRA, is the legal tribal governing body for Sitka, and is eligible to receive self-determination grants. So far the Sitka Community Association has submitted an application to the Bureau for a self-determination grant, and has endorsed by resolution the Alaska Native Brotherhood Camp #1, Inc., application to contract a Johnson O'Malley Program directly from the Bureau. We have been assured by the Bureau that both applications are in order, that the JOM plan is approved, and can expect approval of our self-determination grant application. These two applications are the first to be submitted under this arrangement, so we cannot

September 2, 1976

realistically assess the appropriatness of this arrangement. It is our hope that this arrangement will be satisfactory to all concerned.

In Southeast Alaska we are faced with many of the same problems and restrictions which prohibit the participation of "urban Indians" in self-determination programs. In Sitka we have an Indian community composed of Tlingits, Tsimpseans, Haidas, Eskimos, Aleuts, Athabascians, Siouxs, Navajo, and most other tribes from throughout the "lower 48". We cannot exclude other people or other tribes from the benefits of programs in our community.

In light of the aforementioned views and observations we offer the following recommendations:

1. Careful consideration be given to the uniqueness of Southeast Alaska's traditional system of governance.
2. Consideration be given to special regulations for Alaska and/or Southeast Alaska.
3. Amend the ACT to clarify which Indian organizations are eligible to participate.
4. Clarification of Indian tribes for Alaska in regard to the Land Claims Settlement ACT as referred to in the ACT.
5. Local (community) control be placed as the top priority, in the implementation of amended regulations.
6. That there be adequate input from village and community residents in the establishment of regulations (amended).
7. And that appropriations be increased to facilitate the implementation of amended regulations for Alaska and/or Southeast Alaska.

September 2, 1976

In conclusion, I am compelled to say that I believe that while there may be many advantages to considering a regional entity as the legal tribal governing body for Southeast Alaska, it must be realized that that philosophy would be highly unrealistic and would ultimately become a destructive force among the Native and Indian people of Southeast Alaska.

For Sitka, if the Sitka Community Association (IRA) is recognized as a legal tribal governing body and is allowed to revise its' method of selecting Board members to include representatives from other Native organizations in Sitka, we will have a real chance of participating in self-determination efforts and will make the most of them.

Thank you for your time and I hope that you will include us in further discussions. We are anxious to play a part in any formulation of regulations under which we must operate.

Sincerely,

Pete Azure Pres

Pete Azure, President,
Sitka Community Association (IRA)

Due to the shortness of the notification for the hearing, time was very limited for preparation of this paper.

Persons involved:

Isabella G. Brady, President Tlingit - Haida, Sitka Chapter
Ellen H. Lang, President Alaska Native Brotherhood Camp #1
Barbara Lewis, Grand President Alaska Native Sisterhood
Martin Strand, Tlingit & Haida delegate to CC, Sitka Community Assoc. Board Member
Raymond Perkins, Sitka Community Association, Board Member
Moses Johnson, Sitka Community Association, Board Member
Frank O. Williams, Sitka Community Assoc., Board Member, Tlingit & Haida delegate to CC
Henry Benson, Sitka Community Assoc., Board Member, Tlingit & Haida delegate to CC
Andrew Hope III, Tlingit & Haida Local
Shirley Yocum, President Alaska Native Sisterhood Camp #4.

SheeAitka Board Members:

Ethel Staton, Herman Kitka, William M. Brady, Robert Carroll, Phillip Lauth, Gilbert Truitt, Harold Lewis, Theodore Borbridge, and Director Warren Weathers.

Senator Abourezk. We have fourteen witnesses, total—fourteen sets of witnesses and the next witness will be number five, Pat Gardner. Is Pat Gardner here? The next witness will be number six and that's a set of witnesses, Roy Barr and Edward Gamble from Angoon. Are they here? Then we're moving right along here. Ed Thomas and Doug Modig from Ketchikan?

STATEMENT OF ED THOMAS, CHAIRMAN, INDIAN REORGANIZATION COUNCIL, KETCHIKAN INDIAN CORP., ACCOMPANIED BY DOUG MODIG, CHAIRMAN, JOHNSON-O'MALLEY PARENT COMMITTEE, AND COMMUNITY PLANNER

Mr. Thomas. Thank you. My name is Ed Thomas. I am a Tlingit Indian residing in Ketchikan. I am chairman of the Indian Reorganization Council, which is called the Ketchikan Indian Corp. I'm also director of Indian education in Ketchikan. Doug here is the chairman of the district wide Johnson-O'Malley parent committee, and also the community planner underneath the grant we received under the grants part of Public Law 93-638—or we're going to receive, we hope. Did you have anything to say?

Mr. Modig. I didn't prepare any particular comment, but I would like to respond to some of the questions that were asked earlier, specifically concerning whether or not we should have a regional kind of concept, or participation on a local level.

Senator Abourezk. I would like to hear your views on it.

Mr. Modig. OK. Even though one of my positions is chairman of a regionalization committee, one of the concerns I have specifically has to do with whether we're going to get local input into the specific kinds of things that happen on a national basis and State basis and things that happen on a local basis.

For example, is the implementation of Public Law 93-638—what is it, where is it going, what has happened to it, why aren't the people informed, what will it take to get the things to happen at a local level that are supposed to happen?

I may somewhat get a little off course because of a lot of things that relate to that in that the actual implementation of Public Law 93-638 is kind of tied up in different kinds of issues and never ever gets to the community such as the contract negotiation problem with the Bureau of Indian Affairs and the Tlingit and Haida Central Council. Also the fact that our own particular community, that the grants haven't up until almost 6 months after the program had already started, or something like that.

Another concern is, if everyone wants to regionalize, if there is to be a regional kind of concept, how are we going to meet the needs of Ketchikan when the needs of Ketchikan may be different from, let's say, Craig or Klawock or Sitka or Petersburg?

Senator Abourezk. If you had a regional organization doing the contracting, wouldn't the regional organization go to the Ketchikan community and say, "Look, what do you need? We're representing you. What do you need? We've got some people that can come in and handle this for us, this particular contract," wouldn't they do that?

Mr. Modig. I'm sure that they would—I'm sure that's what their intention would be. However, how would that be feasible to do that?

Senator **Abourezk**. Why wouldn't it be?

Mr. **Modig**. OK. I was talking with a person that was running for House of Representatives and they said—I asked them, "How are you going to meet the needs of the Ketchikan community?" Their response was, "I'd come to Ketchikan once every month and sit at the city council chambers and talk with the city council." The question I had was—was the city council meeting the needs of the people? They're not. Obviously, otherwise, there wouldn't be some of the social problems there are now. The problem has to do with contact and are you going to reach the people on the local level, the people that have some specific needs that need to be dealt with. What you're saying is you can blanket a problem and you can find some people that will represent you or a regional corporation that have a lot of particular responsibilities could meet any particular need on an individual basis or even a community basis.

Senator **Abourezk**. We're talking about self-determination contracting—let's take welfare services. How is that handled in your community right now? Who is handling the welfare?

Mr. **Modig**. It's handled by the Tlingit and Haida Central Council, Southeast Agency.

Senator **Abourezk**. It's handled by them now. Are you satisfied with the way it's being handled?

Mr. **Modig**. I don't have much contact with them. In other words, I would like to say, "No, I'm not happy with them," but I can't specifically give you facts and figures and say why I'm not happy with them. The only thing that I can say is that the people that aren't receiving services, it's obvious that they're not receiving services and nobody does anything about it until there's some documentation, until there's a needs assessment done and, you know, something very, very radical happens that would cause people to get interested. For me to say that Tlingit and Haida is not meeting the particular needs of the community, I cannot say that for sure.

Mr. **Thomas**. In specific areas, there is shortcoming of the central council, of course, some of them like housing, low income housing and those areas where the social services itself, I think, is pretty well taken care of as far as Ketchikan is going but I think some of the other things like housing is really a big problem.

Senator **Abourezk**. All right, who handles the housing there now?

Mr. **Thomas**. Individual people.

Senator **Abourezk**. Who funds it, the BIA area office or what?

Mr. **Thomas**. There is no funding for housing in Ketchikan.

Senator **Abourezk**. There is no housing program in Ketchikan?

Mr. **Thomas**. There is no housing program except the State program.

Senator **Stevens**. I think T. & H. has been one of the most outstanding organizations in the country to move forward with a program. The question has been limitation of funds and the ability to get approval of designation—if you're talking about federally supported program. They're had probably—John, I think I'm right, that you had a major share of the units that had been approved in the whole State, haven't you, in this region?

Commissioner BORBRIDGE. Yes, that is correct in terms of housing. It would appear to me and I certainly don't want to paraphrase anything that the witnesses are attempting to bring to our attention—it almost seems that we have two things that we're looking at. One is the overall needs that our people in Ketchikan have, which may or may not be met at the present time; the other is the assessment of the delivery of those services given whatever resources the bureau or anyone else is providing. And the question of how adequately that is being done with the resources which in their totality may or may not be adequate. I sense there are two overall questions and we seem to be melting them together, but you're right in terms of what the council has done in various areas, Senator, certainly housing in other areas.

Mr. THOMAS. It's my feeling that we're getting in just a little of the kind of testimony that we'd like to present. We have been neglected in some areas, but we wanted to hash out some of those areas here. I think we're dealing with the act itself and the way it's going to affect communities like Ketchikan.

Senator STEVENS. I don't want to seem argumentative either to what you're saying. I think there is a need for a local assessment of what is the demand for any particular service, be it welfare, housing, or anything else. There also is a need for someone to assess the relative priority of the demand in Ketchikan as opposed to the demand in Craig, Hoonah, Klawock, Hydaburg, Juneau, anywhere else in the region, and someone has to make the tough decision—if you've got so many units to go into a particular region, who gets them first. I think we all admit that nationally, statewide, regionally, and locally, we have not had enough assets to meet total needs or total demands for services. But I think this region has done a better job than any other region in trying to marshal its assets to deliver the services, deliver the assistance that is available. I do believe that you've gotten about a third to a half of the new housing starts under the Federal housing programs in this area—for Alaska that is.

Mr. THOMAS. I think I'm aware of the housing part if you want to discuss housing all day, but what I'm trying to get at is they are on phase two's and three's in some of the villages and not one house has been built in Ketchikan under the Turnkey, and those kinds of things exist, you know. We have a total of about 1,700 Indians in that town and where is the justification line there when you talk about housing?

I think we're——

Senator ABOUREZK. Have you ever tried to find out why there isn't any housing in Ketchikan?

Mr. THOMAS. Yes.

Senator ABOUREZK. Why is it?

Mr. THOMAS. Nobody is building any.

Senator ABOURZEK. Why haven't they built it?

Mr. THOMAS. Because they didn't have the kind of Government structure in the community which was forceful enough and the needs assessment wasn't done on the community by the——

Senator ABOUREZK. You mean the Indian community wasn't agressive enough to go and get a housing project.

Mr. THOMAS. Yes. There were a lot of different things that the Native people did not address individually. When you get a town that size, when you don't address it individually, you just don't address it.

Senator **Abourezk**. How would that be changed if we change the definition of who is going to administer 638 services, then?

Mr. **Thomas**. Well, that's what I was trying to get to. When we talk about a definition of a town like Ketchikan where we have multiple, ethnic kind of a situation that include quite a few Tsimpseans that have been living there all their lives, they feel they do not have the input into these kinds of programs because they are not Tlingit or Haida. That's under the concept of having Tlingit and Haida administrating body. I am a Tlingit myself. I'm a delegate to the Tlingit and Haida Central Council and I am vice-chairman of the local Tlingit and Haida Chapter. However, I have to speak—we're talking about two-fifths of the population of Ketchikan who are not Tlingit or Haida; they feel left out of input into services and justly so when it comes to some of these things.

Particularly, it is very strong in our educational kind of program. As mentioned of Sitka, we have people who are not Tlingit or Haida who are most active in our programs.

As far as the regional concept, I'm not opposed to it. I think it's a good one. I think we might have to expand on it. The regular Tlingit and Haida structure so we can include some of these people—we might include some of the people that aren't Tlingit or Haida so they could have some input in determining their destiny as far as services as well.

If I may, I'd like to go on through my testimony—we do have to catch a plane back to Ketchikan—then I will be open for some questioning.

Passing up the definition of Indian which you have before you, I'll go on to training technical assistants. As some of you may know, there is approximately in the neighborhood of $100,000 to Alaska for training and getting potential contractors aware of the laws, rules and regulations under Public Law 93–638.

In the past, so far as I can see, there has been much too much training going on in the BIA staff. Many people have been trained and very few of the potential contractors who would be the village tribal governing bodies; there have not been enough of those people included in this kind of training.

As a result, when we come to a testimony like this, lots of people don't even know what the impact of this particular act is and yet we have a lot of trained BIA people, but when we make application, they tend to sit on the desks in their offices.

This can be probably pointed out much more clearly in the Johnson-O'Malley question. We've been working on Johnson-O'Malley southeast regional concept since last November. We've established some of the basis, we've contacted every community, every Johnson-O'Malley parent committee, every IEA parent committee and we had three meetings to form it and we set up bylaws. We set up the concept where we would contract the administration of the Johnson-O'Malley program and here we are in September and we have no program. It may not be a very big deal to some people, but we're talking about getting into the school system like in Ketchikan; it is very difficult if you don't start at the beginning of the year. Your curriculum is established, your patterns are set and you have to wheedle it in later if you get funded.

Senator STEVENS. Could I interrupt? How much money are you talking about?

Mr. THOMAS. $125,000.

Senator STEVENS. That's substantial.

Mr. THOMAS. That's just in the districtwide program. We have possibly $30,000 in two other programs who were applied for individually for individual school programs. We're talking in the neighborhood of $185,000.

These kind of programs, when they drag and you try to implement them all at once after the school year starts, is a problem. Not only that, the school district itself applies to other schools and if they don't get their funding, they are ready to dump it.

We have to fight very hard to get our Indian programs into where we have several different cultural ethnic groups in a community like Ketchikan, and it's very hard to maintain it when we lose the trust of the school district, as we mentioned before. In fact, just before I came up here, I got approached by the assistant superintendent of schools suggesting that we either get on the ball or forget about the program. That's how it is getting to be because if they start a program after the staffing has been done, they have to start a new procedure.

As far as technical assistance portion which is a contract to the AFN, we have, as regional education parent committee in Southeast Alaska, opposed the AFN contract simply because from past experience—it's like somebody administering a program that's going on Miami from Omaha, Nebr. It's not that feasible for technical assistance. Even in southeast Alaska itself, it's just like administering a regional program on both sides of California. We're dealing with distances, and time is distance, and money also. That's why we oppose the AFN contract because history has proven that they have not given southeast Alaska the kind of technical assistance we believe necessary to have a good program.

I think we would, in fact, object to any portion of our grant to be utilized for the technical assistance that we do not ratify as governing body in our community.

I probably didn't touch everything. I kind of rushed through what is written down here, but I will be available for any kind of questioning.

Senator ABOUREZK. I have already kind of posed my questions to you and I have no more unless somebody else does.

Commissioner BORBRIDGE. I have a question, Mr. Chairman, a brief one and I think you've answered it in part. You have a statement, "we submitted a regional plan." Who would the "we" be specifically?

Mr. THOMAS. In what particular part, the JOM?

Commissioner BORBRIDGE. It was just a statement you made relative, I think, to JOM. You stated and I read specifically from your testimony, "In southeast Alaska, we have submitted a regional plan to the Bureau in the spring."

Mr. THOMAS. I'm sorry I didn't identify that. It was the regional Johnson-O'Malley administration program and we met and got the concurrence of all the tribal governments that were willing to participate.

Commissioner **Borbridge.** Were you satisfied with the representative character of this JOM entity as representative of the interest of southeast Alaska as it was set up?

Mr. **Thomas.** Yes; I think we had adequate input into that concept. Like in Ketchikan, on this regional plan, we don't have that much to gain except for the association with the people. It's like Ms. Brady said, we can't always count on that these funds will continue forever, so we have to do something about the school laws and the school set ups to have these programs a regular part of teaching our children and we're not going to do it individually.

Mr. **Modig.** I would like to further comment to say that to implement the 93–683 law, there needs to be some method put in to where the implementation does reach the community at the community level and that training is provided so that communities can indeed determine their own self determination.

Again, I have a lot of criticism and perhaps a lot of bias about some of the things that have happened, but mainly about the things that have not happened. I would like to make it very, very clear that my feeling is that the community can work together and that they can work out a plan somewhat that would meet these things, but the essential things are implementation and training at the community level.

Senator **Abourezk.** Thank you both very much. We appreciate your appearance and your testimony. The next witness is Wally Leask from Metlakatla. Wally? I understand you're the mayor of Metlakatla?

Mr. **Leask.** Yes, sir.

Senator **Abourezk.** You don't have any prepared testimony, do you?

Mr. **Leask.** No, I don't. We came up here for something else and just happened to hit this. We heard the other day that this was in the process of going on.

Senator **Abourezk.** We're glad you hit us.

STATEMENT OF HON. WALLY LEASK, MAYOR, METLAKATLA, ALASKA

Mr. **Leask.** Thank you. For the record, I would like to make it clear of our position in Metlakatla. We're one of the only federally recognized reservations left in Alaska. We chose not to enter the Land Claims, and as a result we are keeping our reservation and in the process really—what we did come up here for was to negotiate some contracts. We have our law and order, our social service, we're going to talk Johnson-O'Malley, but these are things, for the record, I'd like it clear, we hold no bias for the Tlingit/Haidas and would like to work with them. I have a brother that's on the board of that and one on Sealaska.

But we would like to make it clear that we are a reservation, that we're working from that point from the council—we do have a council and the public self-determination is set up pretty much so that we can work with it. I can see the other tribes from the city having problems with it because of their situation, we don't. But we have worked with—

some with the Tlingit and Haidas. They have much expertise and we're working with education through the BIA and social service we just contracted for.

But there are many things we are attempting to do, we feel, that from the reservation and knowing what is needed there that we can do a better job for our people. As a result, we are going to attempt to contract for as much as we can.

I just want it clear on Metlakatla's stand.

Senator **Gravel**. You found no conflict then with Tlingit/Haida at all?

Mr. **Leask**. There are some things we disagree with entirely. We work with—supposedly we're working right with the BIA. The Tlingit/Haida has contracted for the southeast and we think we should be notified who we're going to deal with.

There are some things that we really don't understand. For instance, the band analysis. Where do we stand? We don't know. How much money are we allotted for different things? We have asked, we don't know. We are getting along in some things, we know we work with Mr. Dunn in the education department. We work with other people in different parts with the Tlingit/Haida organization. But we would like to know really how much money is there allotted, what can we expect, what do we do. We hope that by contracting we can find this out.

Commissioner **Borbridge**. Mr. Chairman, just as a matter of information, then under the current situation, the central council is contracting for and administering all of the services previously administered by the Southeast BIA Agency and this includes responsibility for Metlakatla?

Mr. **Leask**. Not all. We checked with, for instance, the education. We work with Francis Dunn because this was set up that way and Francis is in Ketchikan. We work quite closely with him.

In the near future, there's the possibility—and I won't preclude anything on that—we will attempt to contract for that ourselves because we think we can do a good job. Francis is doing a good job, a real good job, but we think we can do better. And, as a result, we will attempt contract for it.

Commissioner **Borbridge**. What I am seeking to do, for the record, is establish that there are certain services for which the central council contracted with the Bureau of Indian Affairs.

I had understood at one time that this included total services with the exception of those provided by the Bureau to Metlakatla and as a consequence this was residual and not directly under the authority of central council. But the central council is providing some of the services that are being received by the reservation?

Mr. **Leask**. There was some service that we requested was set up, but we don't really know. There's kind of a vague area. We work with them some, but we are not under the Tlingit/Haida. We do work with some departments. Now, I can't go right down the line and tell you.

Commissioner **Borbridge**. I can appreciate that, Mayor.

Senator **Gravel**. Can you get that for the record, though? I would appreciate it if maybe you could write us a letter and outline where you do interface.

Mr. **Leask**. Yes. I'll talk to my attorney back there and we'll have a letter for you probably before you get back to Washington.

Senator **Gravel**. Good. I think that would be very valuable to have.

Commissioner **Borbridge**. What might be helpful, Mr. Chairman—first, I wanted to respond this way, Mayor, and that is your brother is a very valuable member of the board of directors of the Sealaska Corp., and having received favorable comments on the other brother that is in the central council and heard about some of your constituent's reactions in Metlakatla, it may well be that the successful politicians would like to gain some hints from the family on how to achieve this kind of people support.

Mr. **Leask**. Thank you.

Senator **Abourezk**. Thank you very much.

Senator **Gravel**. It was nice seeing you, Mayor.

Senator **Abourezk**. Our next witness is Bill Thomas.

Mr. **Thomas**. With no preparation, I would like to relinquish my time as a witness.

Senator **Abourezk**. OK. Thank you, sir. Steve Hotch and Joe? Whichever pleases you to go first.

Mr. **Joe Hotch**. I'll go first.

Senator **Abourezk**. OK. Joe.

STATEMENT OF JOE HOTCH, PRESIDENT, IRA COUNCIL, CHILKAT VILLAGE, INC.

Mr. **Joe Hotch**. My name is Joe Hotch and this is my brother Steve. From a previous visit from the Indian Policy Commission, we would like to support that same report we made to the commission in Klukwan which is that the local people have the determination for themselves.

We feel that depending upon other people you're losing your local structure and through this, just reviewing our own records at Klukwan, we realize that there's a large amount of alcoholism problem. I believe this is not only for the community of Klukwan but for the rest of the villages because there are other organizations taking the problems upon themselves when local people should be doing for themselves. If we could get the self-determination down to the village level, or to the IRA level, this would help keep the village intact. But there will be some areas where communities will have to go to Tlingit and Haida and Sealaska, but they are already an organization. This is what they are there for. We don't have to put another piece of legislation to go to them. They are already working for us and I think if you could attack this through local Tlingit people and Haidas, we'll stay alive in this world.

Senator **Abourezk**. Thank you, Joe. Steve.

STATEMENT OF STEVE HOTCH, SECRETARY, IRA COUNCIL, CHILKAT VILLAGE, INC.

Mr. **Steve Hotch**. Yes, Mr. Chairman. I do not have a written statement. We got our notice about 4 o'clock yesterday afternoon. I don't think there is a Senator in Washington, D.C., who could prepare a statement in that amount of time. It's a good thing that I'm a half-breed Republican and half Democrat. I'm ready to make a speech anytime.

Senator GRAVEL. And please both sides, too.

Mr. STEVE HOTCH. I fully support my brethren's comment that our problems should be combated and handled on a local level, especially in our community which is governed by the IRA corporation since 1941 and I'm not ashamed to say that my community is the only community that I know of in Alaska that has been active since it got organized in 1941. And, by the way, I've been secretary of that corporation since 1941 right up to date and without pay. It's good to be a Republican sometimes.

Senator GRAVEL. That's the reference without pay.

Mr. STEVE HOTCH. There's one thing that I always had in my mind everything we have a conference like this with both the Federal and State Government, that's in line of education for our Indian people.

I notice in the Self-Determination Act that Johnson-O'Malley is spelled out Indian education. So that question in my mind is, I've plead with the Bureau of Indian Affairs and all their representatives every chance I have.

Right now, I could safely say a good percentage of our Indian people fell below the one-quarter degree blood requirement, which is bad for my people. They couldn't get any assistance in the line of education because of the one-quarter degree requirement.

Right in my community of Haines and Klukwan, I would say that there are several youngsters that are making every effort to continue on into college education, but financially they couldn't do it. So I heartily recommend that these two Senators look into the matter.

I brought it up with Joe Wilson several times and he was to write letters on it. I hear no result of this correspondence, if any was made. I feel strongly that something should be done. In probably the next 5 to 10 years, none of my people will be qualified because of this one-quarter degree requirement placed upon them by the Federal Government.

I also am concerned, have always been concerned, about the interpretation of "tribe." In the Lower Forty Eight, I see no problem. But in Alaska, something has got to be done. If we ask the Bureau of Indian Affairs to give us their interpretation, "Well, we'll look into it. We'll let you know." That is probably the end of it right there. It's easy to look into a matter if you're concerned enough to look in to it; but, like I say, sometimes they just end up in the wastebasket.

I believe, Senator, that something should be done in lines of the interpretation of the word "tribe."

I would like to also thank the two Senators for giving us the opportunity to be heard. We fully support Sitka's stand. All these problems should be handled on a local level. If it wasn't handled at the local level, the Self-Determination Act is not good for us, you're not doing us any good.

Like in my community, it's been governed by the IRA corporation and we intended to continue under the IRA corporation. We also agreed, in our community, to continue to work through the Bureau of Indian Affairs in a lot of our problems on a local level. A lot of people criticize us for sticking to the Bureau of Indian Affairs, but I'm willing to bet a penny this big Native corporation is going to be thin in the path, and where are we going to wind up as Indians? There's getting to be too many chiefs in this Indian corporation, and not enough Indians. I thank you.

Senator STEVENS. I appreciate your coming in and your frankness. The thing that was mentioned by Mr. Antioquia though bothers me in terms of—or did bother me in terms of administrative costs. I see he's found a suggestion on how to get around the administrative costs—just require Republicans like yourself who are willing to work for your community for nothing—that's a political comment, gentlemen.

Mr. STEVE HOTCH. If you talk any further, you're going to lose one vote.

Mr. JOE HOTCH. I would like to say for the record, we did bring all our council members down just to be sure that we have a full report to make to the people of Klukwan on this because Steve and I figured that the two of us together would not make a complete report, but a full council member of IRA was present at this meeting——

Senator ABOUREZK. Are they here now?

Mr. JOE HOTCH. Yes.

Senator ABOUREZK. Why don't you introduce them?

Mr. JOE HOTCH. Charles King, Dick Hotch, Johnny Willard and Ed Kasko are out right now.

Commissioner BORBRIDGE. I have some questions—I doubt I'll lose a vote, but I'll ask. Is Klukwan included under the contract by which the Southeast agency's services are provided by central council? Is Klukwan included under that or are you out of that? For the Southeast BIA Agency?

Mr. JOE HOTCH. Yes.

Commissioner BORBRIDGE. They are included. Then the specific reference that is made is namely that Klukwan has indicated very clearly it wishes to retain its BIA day school, is this correct?

Mr. JOE HOTCH. Right.

Commissioner BORBRIDGE. Then the position of Klukwan is that it clearly advocates and wants local self-determination, it wants the maximum opportunity to be involved and provide services, and it advances the proposition that local self-determination ought to be priority No. 1?

Mr. JOE HOTCH. Right.

Commissioner BORBRIDGE. Do you feel that there are any services, such as housing, that are better provided on a regional basis?

Mr. STEVE HOTCH. Mr. Chairman, we have no objection to working with central council. We fully support central council. Like I say, we have no objection. I think they are doing a very good job and we continue to support them, but on certain instances, we demand the right to conduct our own business under the self-determination law.

Senator STEVENS. Have you defined the areas in which you're making the demand that the local village handle the self-determination aspects?

Mr. STEVE HOTCH. We keep that in our secret file for a while—until after the election.

Senator STEVENS. You're going to worry me here pretty soon. I'm interested again in trying to see if there is some formula we might develop in legislation that would provide for less than total opting out as was mentioned in the Sitka situation. I can understand where some communities would want to perform all the services, others would want to perform some services and others would entirely want to rely on a regional entity depending on the circumstance and the area in the State from which they come. There are areas in the State, you know, that get postal service about once every 4 months. They can hardly meet deadlines and get their applications and other things in on time because of communication problems, and they are going to regional organizations almost exclusively where there is lack of communication capability.

I don't think we can do something in this area except on a formula that would give the right of local self-determination to everybody in the State, and I'm trying to find out, do you have any ideas about what area you would refuse to delegate to a regional group like T&H?

Mr. STEVE HOTCH. Isn't that the intention of the Self-Determination Act that the people on the local level handle their own determination? If the answer is yes, I agree with Sitka; if not, you'll have to give another interpretation.

Senator STEVENS. All right.

Mr. STEVE HOTCH. We have no further comment.

Senator GRAVEL. The next witness would be Brian Burgess. Sam Demmert, is Sam here?

Mr. DEMMERT. Yes, I don't have any prepared statement at this time for the hearings. I'll present a formal statement. [Statement not received in time to be included in the printed record.]

Senator GRAVEL. Conrad Baines. Bob, if you want to join him, Bob Willard and Conrad Baines, and do it as a panel.

STATEMENT OF CONRAD BAINES, JR., EXECUTIVE DIRECTOR, SOUTHEAST ALASKA REGIONAL HEALTH CORP., ACCOMPANIED BY ROBERT WILLARD, EXECUTIVE DIRECTOR, TLINGIT AND HAIDA CONTRACTORS ASSOCIATION, JUNEAU, ALASKA

Mr. BAINES. The reason why Bob has come up here is there is a lot of things that I have to say pertain to Indian Health Care Improvement Act and Bob has done a lot of work in this area.

I have about five areas I would like to make some comments on before questions—I don't know how Bob wants to proceed.

Senator GRAVEL. Bob, what's your wish, do you want to proceed that way? You were going to be a witness in your own right.

Mr. WILLARD. Fine.

Mr. BAINES. I do have a formal written testimony and it is included as part of central council's packet. Here is the original copy even though you have a Xerox copy of it.

Senator GRAVEL. Thank you.

Senator STEVENS. Is that in the T. & H. packet?

Mr. BAINES. Yes, it is.

Ms. LEWIS. Before Mr. Baines continues, for the record, is he here as an individual or here representing an agency?

Mr. BAINES. That's what I would like to clarify at the beginning of my statement.

Senator GRAVEL. Go ahead and clarify and proceed.

Mr. BAINES. First of all, I would like to state that I am the executive director of the Southeast Regional Health Corp., but the statements I do have are not board approved statements and should not be construed as official board policy of the Southeast Regional Health Corp. I am drawing upon my experience of the past year as director of the Native Health Corp. for the Southeast District.

The first remarks I would like to say is what health corporations are in Alaska. As you all are aware, each region has a—there are 12 Native regions in the State of Alaska and where health corporations arose, they are spinoffs from the Alaska Native Land Claims. Health corporations were not created under the Alaska Native Land Claims.

In some regions, the health corporations are the same as nonprofit, such as the Tanana Chiefs. The Tanana Chief Health Authority is the same thing as a nonprofit. They use the same articles of incorporation and the same bylaws. However, in other regions, such as here in southeast, the health corporation is completely separate from nonprofit and this situation exists, at least in the 4 years that I know of. These areas are the Norton Sound Corp., which is the same region as the Bering Straits Native Association; Yukon Kuskokwim Health Corp., the same thing as Calista, and ABCP region.

The functions of health corporations are to act as tribal health departments and, as such, we are affiliated with the central council which Ray Paddock is the president of.

We are tribal entities, but they are not tribal governing bodies.

The health corporation has been interested in 93–628 type contracts but the situation is so vague. In order to obtain a 93–638 contract, we must obtain tribal clearance. But who is the tribe?

The other four areas I would like to speak upon involve the Indian Health Care and Improvement Act, 93–641, National Health Plan and Resources Development Act, Contracting National Health Service Corps—I'm really not sure if I have enough time to cover all this, but it is in the packet here.

The Indian Health Care Improvement Act, I would like to state our support for the act. The need is large, especially here in southeast Alaska.

In talking to the Mount Edgecumbe service unit, the need for this region is $5.5 million, and that is what this document here is, is a cost out of the unmet needs.

The budget right now for the Indian Health Service for this region is $6 million, so essentially it's offering about half of what the projected needs are in order to do a good job.

Also pertaining to the Indian Health Care Improvement Act, I would like to state my own personal opposition to the Secretary of HEW's idea about where the Indian Health Care Improvement Act should be channeled. The Secretary of HEW, David Matthew, if the Indian Health Care funds were to go through—administratively, he thinks the money should go to the Social Security Act instead of going to the Indian Health Service. The social security in rural areas is, in my opinion, completely unsatisfactory, unworkable.

Pertaining to 93-641, there are a couple of things I would like to say about that law. As you know—how familiar are you with the law 93-641?

Senator ABOUREZK. Which law is it?

Mr. BAINES. National Health Planning Research and Development Act. Helps agencies, statewide health coordinating councils. Well, the purpose of that bill is to set up planning areas and in Alaska there are three planning areas, southeast, Anchorage area and the Fairbanks area. Funds from the Federal Government go to tribal organizations are exempt from Health Systems Agency approval, however, Health System Agencies do have a review and comment authority over all proposals that the tribal entities may submit to the region.

It is my opinion that the Health System Agency can have a detrimental effect to tribes due to the fact that they have authority to hold up any projects up to 60 days in making comments to the secretary of any Indian projects.

Senator STEVENS. Well, that's not long, is it, really? I mean, you look at what we were trying to do to replace HMO's and provide for areawide, statewide, regionalwide coordination of planning to eliminate what we ended up with, in some situations in the country where they had a hospital shortage, and other areas where they were just over built in terms of hospitals.

Mr. BAINES. I'm speaking of Indian projects.

Senator STEVENS. I understand, but what they are saying is that the plans that come from the regional—Indian entities, while they are not subject to veto, at least they ought to have the time to talk with them about how they fit in the overall regional plan. I think, as a matter of fact, Senator Metcalf and I had something to do with putting that in there to make certain that we did try to coordinate the Indian efforts with the overall regional aspects of this planning mechanism for health delivery. As a matter of fact, it came, as I recall from searching my memory, from up north in the Yukon Kuskokwin organization wanting to be certain that they were involved in the statewide plans.

Mr. BAINES. Oh, yeah, they are.

Senator STEVENS. But a 60-day delay when you're talking about building a hospital or talking about making a plan for 4 or 5 years for this purpose——

Mr. BAINES. No, I'm not speaking of hospitals.

Senator STEVENS. Oh, but that's part of the planning mechanism.

Mr. BAINES. I'm speaking in general of Indian health projects. Like the contract we have right now at Indian Health Service, our proposals for contracts will have to be cleared by the Health Systems Agency and if they place a negative comment on that proposal, the Secretary of HEW can hold up a proposal after 60 days in reaction to a negative comment.

Senator ABOUREZK. I think we're getting off the subject. I mean this is something that ought to be done, but it's outside the scope.

Mr. BAINES. But my point here is—my main point here in speaking on this is the opposition to the Indian Health Care Plan being channeled through the Social Securities Act. That is the Secretary's opinion of what should happen administratively to the fund.

On contracting, I think most of the issue has been covered but even though Indian Health Service has suffered from BIA in most of the issues are the same there.

Senator Abourezk. May I ask a question? When I was out of the room, did you discuss the local versus regional contracting set up at all?

Senator Stevens. No, not with this witness.

Mr. Baines. No.

Senator Abourezk. What do you think of that?

Mr. Baines. Regional and——

Senator Abourezk. As to how, you know, Indian self-determination ought to be administered.

Mr. Baines. In the health field?

Senator Abourezk. Anything. How should a tribe be defined, as a community or the regional government or whatever?

Mr. Baines. In my mind, it should be done regionally. The central council is the ideal body to do it. Sure, there are problem areas. I think locally—there are some things that can be done locally, such as education and like that. Ed Thomas and others testified on that.

Senator Abourezk. Some things done better locally, some things done better regionally.

Mr. Baines. Like education.

Senator Abourezk. Would you think that, like if T. & H. were the contracting agent, or "tribe" under the definition, that if there is something that might be done better locally, that it could be subcontracted from them locally—on a local level? Would that be a better way of doing it? Have you thought about this whole concept that much?

Mr. Baines. Yes; I have. I've been involved with many activities that——

Senator Abourezk. Well, what do you think of it then?

Mr. Baines. It's sure a headache. Sealaska is a profitmaking corporation. I can't see how they could administer human services type activities and still try to make a profit.

Senator Stevens. I think, Mr. Chairman, if I might interpret, is suggesting what we understand is probably going on to a certain extent already. If T. & H. has a contract for health services, and if the—just a minute—and it decides that Ketchikan ought to have self-determination in that area, the community ought to have a subcontract. He's saying, would you think that that is workable or do you think that we ought to require that if Ketchikan is going to have a relationship to health services, that it ought to contract directly with the agency providing the money instead of going through T. & H.? Am I making it too much?

Senator Abourezk. No.

Senator Stevens. You're in that field, now, would you rather deal with T. & H. which would have a regional contract with the agency that has the money in Indian Health Services and other services, BIA; or would you rather be in the situation that if you were at the local level of contracting directly with those agencies for the services that ought to be reserved to the local governments, local entities.

Mr. Baines. Speaking as an administrator, I think regionally would be a more feasible idea at this time simply due to the manpower.

There are no Indians at all in the clinical field. There exists no Tlingit or Haida or Tsimpsean physicians in the United States. There are a few administrators. I would say that that is one of the biggest problems our health corporation has had within the past year. There exists a few Tlingit, Haidas, and Tsimpseans with background in health administration planners. There is one Native position assistant in the whole State that I know of and that's Fred Lewis and we were fortunate enough to get him on our staff.

I'm taking up a lot of time. I think——

Senator ABOUREZK. Did you have anything you wanted to say in answer to that question I posed?

Mr. WILLARD. Mr. Chairman, I was scheduled to appear on behalf of the organization I represent which is the Tlingit and Haida Contractors Association with regard to the Indian Health Care Improvement Act.

There is under title 3, of section 303, which concerned us which was in the Senate version of S. 522 which was absent in the House version H.R. 2525. We were concerned as to whether or not that provision was going to be incorporated into any bill that the President is now probably sitting on or is on his desk or whatever——

Senator ABOUREZK. What provision?

Mr. WILLARD. That pertains to preferential treatment of Indian contractors in any expenditure that was allocated under the act.

Senator ABOUREZK. The Buy Indian Act?

Mr. WILLARD. Not the Buy Indian Act. The bi-Indian Act, the negotiating authority of the June 25, 1910, act is mentioned in the Indian Health Care Improvement Act under section 303, but it is absent in the House version. That's my understanding that it is absent.

Senator ABOUREZK. I don't know what the House has got, to be honest with you.

Mr. WILLARD. We did submit our letter to the President urging that he, at such a time as the act does reach his desk, that he sign it into law. It is our understanding that he has indicated the idea of exercising his veto.

Senator ABOUREZK. Yeah. I wasn't following you at first. You're saying that the Indian preference and contracting in the Indian Health Service passed the Senate but is not in the House version.

Mr. WILLARD. Yes.

Senator ABOUREZK. Let me—is it still in conference? It's still in conference, but I put that section in the Senate.

Mr. WILLARD. I am well aware.

Senator ABOUREZK. You started talking about something totally different than I was thinking about at the time. I don't know what they are going to do about it. I would hope they keep it in, but that's still off the subject. We're trying to define—or trying to make an effort to define what a tribe is for purposes of Alaska. We need your help. The more you talk about other things, the less help I'm going to get from you.

Mr. WILLARD. I might just clarify my position. I am the executive director of the Tlingit and Haida Contractor's Association representing its interest in southeast.

Senator ABOUREZK. I know that.

Mr. **Willard**. And, as such, we do not get involved in the day-to-day policy decisions of the tribal government.

Senator **Abourezk**. Do you prefer not to——

Mr. **Willard**. So I will yield.

Senator **Abourezk**. I want to thank both of you for your time.

Mr. **Willard**. I might just, while I have a couple of minutes, I will be presenting prepared testimony. We did file a letter dated August 20 to Morris Thompson, object to his March 3d letter pursuant to the Buy Indian Act in which he states for the purpose of the administration of the act, an Indian economic enterprise must be 100 percent home for purposes of implementing and negotiating authority under contracting authority of the act.

This contravenes the Bureau's own memorandum of August 22, 1968, which the then commissioner by memorandum and solicitor's opinion related that 51 percent was adequate.

The reason I bring this out is because as the village corporations venture into business activities, there will be oftentimes we'll go under a partnership basis. We have one such entity now that I am very familiar with wherein we went into a joint venture with a substantial partner for the purpose of their expertise. Our little village corporation controlled 80 percent of the stock. By the interpretation of the March 3d letter of Commissioner Thompson, our business enterprise would be exempt from being included in the special provisions of the act itself.

These are just some of the areas that I wanted to allude to that will become more specific in the written testimony.

Senator **Stevens**. May I inquire, Mr. Chairman? Is that a result of a statutory provision applied in Alaska, or is that a national thing as far as the Indian ownership?

Mr. **Willard**. This is a memorandum put out by the Commissioner Thompson to all Bureau of Indian Affairs and manual holders.

Senator **Stevens**. In other words, it was a national decision?

Mr. **Willard**. It was a national-type thing. If I'm not mistaken, it was not the intent of the act when it was passed in 1910 and amended in 1934 or 1936.

Senator **Abourezk**. Are you going to submit that testimony for the record?

Mr. **Willard**. Yes.

Senator **Abourezk**. I want to express my thanks to you, both of you.

[The prepared statements of Mr. Baines and Mr. Willard follows:]

SOUTHEAST ALASKA
REGIONAL HEALTH CORPORATION
GOLDSTEIN BUILDING, ROOM 414
130 SOUTH SEWARD STREET
JUNEAU, ALASKA 99801
PHONE 907-586-3613

September 1, 1976

The Honorable James Abourezk
Chairman of the American Indian
Policy Review Commission
Congress of the United States
House Office Building, Annex No. 2
Second and D Streets, S.W.
Washington, D.C. 20515

Dear Senator Abourezk:

I would like to thank the American Indian Policy Review Commission for permitting me to present my testimony.

My name is Conrad P. Baines, Jr.; I am the executive director of the Southeast Alaska Regional Health Corporation. The corporation covers the same geographical area as SEALASKA Corporation and the Central Council of Tlingit and Haida Indians of Alaska. The health corporation serves the Tlingit, Haida and Tsimpshian Indians of Southeast Alaska with the mandate to be a strong advocate and to improve their health status to the highest degree with as much community involvement as possible.

My statements have not been approved by our board of directors and should not be construed as policy. I am speaking personally and drawing from my experience of the past year as an executive director.

Although the intent and thrust of the hearing is to obtain testimony on Public Law 93-638 and contracting, I would like to offer testimony on other related and pertinent areas in manpower, facilities, program areas that need funding, PL 93-641 problem areas and the Indian Health Care Improvement Act.

CONTRACTING

SEARHC is a private non-profit health corporation. For the period July 1, 1975 to September 30, 1976, SEARHC was awarded three contracts from the Indian Health Service area office in Anchorage. The contracts were as follows:

1) Contract #243-75-0552, a cost reimbursement contract to

develop the administrative capabilities of the health corporation;

2) Contract #243-76-0032, a fixed price contract to provide primary health care through our health aides in the Native communities where little or no primary health care exists; and,

3) Contract #243-76-0164, for purposes of training our employees in contract administration and finance.

The amounts of the contracts were as follows:

$214,240	Community Development
224,442	Community Health Aide Program
6,600	Staff Training
$445,283	TOTAL IHS FUNDS

There are several problem areas in the contracting process that we find objectionable and should be considered by the policy review commission. For the coming year, the above contracts will be combined into one reimbursement contract. The areas that I wish to bring to your attention are as follows:

1) Cost Reimbursement Contracts with No Cash Advance. We find this objectionable for obvious reasons. SEARHC must rely upon Central Council for daily cash flow.

2) Paternalistic Attitude of Contract and Project Officers. The "would be" contractor has very little voice in the negotiation proceedings. A legal contract advisor (lawyer) is not an allowable cost. When a tribe negotiates for a contract, legal counsel should be made available at no cost so negotiations with the contract officer can be made on equal footing. In the past, all contract requirements were virtually spelled out by the contract officer with little regard to tribal input. This attitude is clearly documented by the Alaska Federation of Natives (AFN) and the Association of Regional Health Directors (ARHD). The Association is composed of the directors of 12 Native health corporations. The August 30 letter from Carl Jack, Director of AFN Health Affairs, to Gerald Ivey, Area Director of Alaska Area Native Health Service (AANHS), is submitted as documentation of the contracting situation.

3) Treatment of Indirect Costs. Whenever we negotiate a contract amount, indirect costs must come from the negotiated amount therefore decreasing the amount of services that is to be performed in the contract. Many contracts have no provision for indirect costs as an allowable cost. The Indian Health Service requires strict accounting of all funds; but to allow little or no indirect costs is a conflict of interest.

4) Budget Revision. The contracts that IHS initiates require a five percent (5%) or $5,000 allowable transfer of line items. Any variance from the 5% flexibility is an unallowable cost. In order to get a budget amended, the contract allows the contract officer 30 days to respond to the proposed budget amendment. We find this 30 days clearly objectionable and unworkable. This response time must be reduced to a much shorter workable time, such as five (5) working days.

INDIAN HEALTH CARE IMPROVEMENT ACT

Testimony would also like to be provided on the Indian Health Care Improvement Act. First of all, we would like to reaffirm our support for the act and would like to emphasize the need for the bill to be passed in the $2 billion magnitude. The projected estimated unmet needs for the Indian health services in Southeastern Alaska is in the vicinity of $5.5 million. The documentation of this figure is presented within the Mt. Edgecumbe Service Unit Operating Plan. This plan has been obtained from Arthur Willman, Service Unit Director.

The Indian Health Care Improvement Act provides for Indian manpower development. This provision is needed in order to truly fulfill goals of Indian Self-Determination. Since the inception of SEARHC April 1975, one of the main problems we have had is finding Indian manpower with formal education and experience in the health field. Indian people with administrative and/or clinical background are virtually nonexistent. To provide an example, since the inception of SEARHC, as the executive director, I have been the only staff member having a masters degree in a health related field. Information drawn from the Association of American Indian Physicians, shows that there exists no Tlingit physicians anywhere in the United States; however, there is a fourth year dental student who is a Tlingit presently working in Anchorage at this time.

It is common knowledge from IHS printouts that most deaths among Southeast Alaska Indians are related to alcohol abuse and accidents. However, at this time, there exists no alcoholism treatment or injury control programs at the community levels. Most Indian communities in Southeast Alaska have either inadequate clinics or none at all.

Although it is known and documented what the Indian health problems are, there exists no manpower, facilities or programs to combat the problems. The Indian Health Care Improvement Act can help remedy some of the problems.

SEARHC has been corresponding with staff of the Secretary of Health, Education and Welfare as to his position on the bill.

Correspondence from David Matthews indicates that he recognizes the need for improvement of health services; but, it is the opinion of the Secretary that the services should be improved through Titles XVIII and XIX of the Social Security Act. SEARHC would like to state our OPPOSITION to the idea of using Medicare and Medicaid as the sole agents for improving health services to the American Indians. The Indian Health Service definitely is the mechanism to improve the services.

PL 93-641

There is another area that SEARHC would like to make comments on. These comments pertain to Public Law 93-641. The law is the National Health Planning and Resources Development Act of 1974.

Even though the rural medically underserved are the number one priority, in Southeast Alaska these are Indian. There are no travel funds for the people from the area to participate in SEAHSA activities. The importance of PL 93-641 to the Indian community cannot be overlooked. While the HSA will have only review and comment authority where Indian projects are concerned, the HSA, in performing their function, can defer forwarding Indian project proposals to the Secretary of HEW up to 60 days. Such delay could interrupt services supported by various grants and/or contracts. Further, a negative comment concerning Indian proposals could influence the Secretary's decision to fund or not to fund an Indian health proposal. Personally, I feel this seems to be an infringement upon the American Indians special relationship with the United States federal government.

We would like to thank you, Mr. Chairman, for coming to Southeast Alaska and hope you return again.

Sincerely,

Conrad P. Baines, Jr.

Conrad P. Baines, Jr.
Executive Director

CPB/rp

Enclosures

tlingit & haida
CONTRACTORS ASSOCIATION
Room 416
130 Seward Street
Juneau, Alaska 99801
[illegible]
586-6505 or 586-6506

Robert Willard
Executive Director

Ernest H. Boyd
Board Chairman

September 16, 1976

The Honorable James G. Abourezk
United States Senate
1105 Dirksen Senate Office Building
Washington, D. C. 20510

Dear Senator Abourezk:

As I indicated in my statement at the Juneau hearing on September 2, 1976, I attach a formal statement, with exhibits, to be incorporated into the record.

You will note the absence of a position on the primary purpose of your mission to Alaska. That of the question of tribal governing entities for the purpose of P.L. 93-638. I apologize for not responding to your query on this subject at the time of the hearing. Tribal governing status has not been the concern of the Tlingit & Haida Contractors, as we have yielded to the Central Council of the Tlingit & Haida Indians of Alaska.

In addressing the issue though of tribal governing status in Southeast Alaska, we recommend as follows:

That the Central be recognized as the Regional Tribal Governing body of the Tlingit & Haida Indians of Alaska. The attached was prepared by this office as an introduction of the Tlingit & Haida Central Council. There is no question that this is a major policy decision that must be made. Our opinion is, and that of our consultants, that the Congress would be remiss in not regionalizing, an entity that attends to, or will attend to, specific tribes, within geographic considerations.

For the purpose of regional planning, and that of implementing socio-economic programs beneficial to the Tlingit & Haida people, we support the Central Council of the Tlingit & Haida Indians of Alaska as the governing body of the Tlingit & Haida tribes. In effect, this is the case now and has proven its effectiveness. The working relationship with the communities within Southeast is excellent. As a rule, the Central Council never initiates any action without the concurrence of the affected community and only after the regional planning process has been complete. Conversely, the communities, or the federal or state agencies, never enter the villages without first securing concurrence from the Central Council.

I disagree with testimony presented by the Sitka delegation. I disagree that the fraternal organizations are eligible for tribal status. By federally approved constitution and bylaws, only persons of Tlingit & Haida descent are eligible for (federal) certification as members of the T & H Central Council. This is widely known throughout Alaska.

A good example of effective regionalized program planning and effective implementation would be any of the entities (or departments) of Tlingit & Haida. Some of these are: the Tlingit & Haida Regional Housing Authority; Southeast Agency of the BIA; Southeast Alaska Regional Health Corporation; Tlingit & Haida Federal Credit Union; to mention a few. These were all established with the written concurrent resolutions from all of the T & H Community Councils, ANB - ANS, IRA Councils, and, the City Councils so as not to slight anyone. In fact, this is compulsory, as ordered by the Central Council. The composition of the various boards of directors is carefully structured to have representation from the communities most impacted by the Tlingit & Haida operatipns. That being the case, this meets any provision for local input and involvement in the planning processes. This substantially complies with 93-638.

The effect of federally recognizing Tlingit & Haida would extend to all T & H communities within the Southeast Alaska region. If in the best interest of the impacted community, contractual arrangements are possible. The primary rationale though would be coordination and improving the delivery of service. A goal which we feel you are striving for.

I apologize for the length of this letter. At the time we were notified of hearings, we were advised that this would cover all aspects of federal policy as relates to Indians of Alaska. Hence, my formal statement addressed our views and regards the federal policies as affacts those Native owned economic enterprises which we represent.

Thank you for your time.

Respectfully submitted,

Robert Willard

Robert Willard
Executive Director

cc: Senator Mike Gravel
Senator Ted Stevens
Raymond E. Paddock
Board of Directors - THCA

STATEMENT OF ROBERT WILLARD, EXECUTIVE DIRECTOR OF THE TLINGIT & HAIDA CONTRACTORS ASSOCIATION
JUNEAU, ALASKA

Mr. Chairman, on behalf of the member firms, affiliated with the Tlingit & Haida Contractors Association, I appreciate the opportunity to express some concerns as pertains to federal policy matters as these policies affect our Native owned economic enterprises.

We commend the Senate for passage of S.522 and the House for passage of H.R. 2525, which, as you are aware, is cited as the Indian Health Care Improvement Act. We have submitted our letter to President Ford urging that he sign this into law. It is my understanding that the President is likely to exercise his power to veto. In an array of its concern, both houses of Congress overwhelmingly approved its version of a Indian health care bill. I will hope that the President will sign the Act into law.

As regards the Act of June 25, 1910, or the Buy Indian Act, we have posted our objections to Commissioner Morris Thompson's memorandum of March 3, 1976 on the subject of Buy Indian Act contracting. The memorandum states "Indian contractor means a legal entity which is 100% Indian owned or controlled."

The effect of this interpretation will effectively eliminate Alaska Native economic enterprises which may be 51 - 60 or 80% owned by a regional or village corporation. This contravenes the Bureau's own definition issued on August 22, 1968 in which the BIA recognized "Firms controlled by Indians, of which at least 51% of the ownership is by Indians, irrespective of the location."

In this day, when regional and village corporations are investing into various ventures, often times, these are entered into jointly with non-native firms primarily because of the management expertise of the joint venture partner. By Commissioner Thompson's interpretation, a company 80% owned by a village corporation is not eligible under the Buy Indian Act. This carries the effect of diminishing the profitability of the joint ventures or partnerships. Now, there is a valid reason for joint ventures. It is a situation where in some cases, the money is available, but the expertise is not.

We are dissatisfied with the inadequate terminology contained in the P.L. 93-638 as pertains to treatment of Native building and construction contractors -- in programs which affect Native people such as Educational Assistance, and the facilities which the Act alludes to. In the absence of preferential treatment to Indian firms in projects which affect Indians, then, there is no true determination at all. We want to be so self determined to be not only determined to carry on our own projects, but, eventually to achieve self sufficiency in business. But, this will not result unless the Congress makes it clear that the intent of 7(1) of 93-638 is established as policy. In 93-638, there is too much left to the interpretation of federal officials. As a matter of opinion, it is these federal officials who have problems with 93-638 and its application, while the Congress lauds its own effort.

As pertains to the Act of June 25, 1910 cited as the Buy Indian Act, as it relates to 93-638, there are a number of problem areas, which require clarification as to the Bureau of Indian Affairs intent -- or congressional intent.

In our opinion, 93-638 amplified the Buy Indian Act insofar as those two federal agencies are concerned. These are the Bureau of Indian Affairs and the Indian Health Service. On approach other federal agencies of the provision of 7(1) of the Indian Self Determination and Educational Assistance Act advised us that the 93-638 pertained only to the BIA and/or the IHS. It is this area that needs clarification. We believe that the congressional intent was to include all federal departments and agencies. Commissioner Thompson appears to interpret this aspect in that manner. I attached a copy of Commissioner Thompson's letter addressing this issue.

To expand on the Buy Indian Act. If the BIA requisite of 100% ownership is to stand, it will have a profound effect on future investments of the regional or village corporations. As an example, the Modular Pacific Corporation, a Seattle based firm which produces factory built homes, is 80% owned by the Angoon Business Development Corporation which is the investment or business arm of Kootznoowoo, Incorporated. In this venture Angoon relied on two major considerations: (1) that the management personnel would remain - inasmuch as they have the expertise; (2) that we would be able to take advantage of the Buy Indian Act and P.L. 93-638 and thereby increase sales volume. With Commissioner Thompson's 100% requirement, that is not possible.

As the Native corporations expand their investments, this becomes increasingly important because of 100% is required to take advantage of the Buy Indian Act, then the corporations would probably begin acquiring 100% control of a given company. The effect here is that the management would not be inclined to remain. Postulate, if you will, a situation where Angoon acquired 100% of Modular Pacific and the management personnel left the employ. Angoon would be left with a company it doesn't know how to run. By virtue of our partners 20% interest, the management and personnel remains and our partners are seated on a board of directors. To Angoon this is good business logic. I would prefer that this policy revert back to "an Indian Contractor means a firm which is 51% owned or controlled by Indians or Alaska Natives."

Our experience with the Indian Financing Act is another concern. The Act requires that the Indian firm be based in or near an Indian reservation. Most of the firms affiliated with the Tlingit & Haida Contractors Association are based in urban settings because of business necessity. And, it follows that these firms are not eligible for application under the Indian Financing Act. We will appreciate your reviewing this provision.

There are many problems that confront Indian economic enterprises which would involve considerable time and material. Perhaps at some future time, these can be addressed. Thank you for your time.

Senator ABOUREZK. The next witness is David Katzeek. David, would you describe what your position is?

STATEMENT OF DAVID KATZEEK, VICE PRESIDENT, TLINGIT AND HAIDA COMMUNITY COUNCIL

Mr. KATZEEK. My name is David Katzeek and I am a Tlingit person and I hold a couple of responsibilities. One, is being the vice president of the local Tlingit/Haida Community Council, and also an ANB member, and also a Shun-Goo-Kay-Dee tribal person.

First of all, you caught me kind of flatfooted. I am a little nervous and normally that's the situation that always develops with me. I kind of get a little nervous before I try to say something profound or whatever.

Senator ABOUREZK. We're all the same way up here, so don't feel bad.

Mr. KATZEEK. I would say that I am Tlingit and I'm not Indian and I would say it's basically from the fact that from the time I was taught as a young person, everytime I said I was an Indian, my grandmother and my grandfather and my uncles and different ones told me I was not Indian, that I was Tlingit, that I was an individual and that Indian came from a different place.

When I went to school, I found out that Columbus sailed across the ocean blue, he was looking for India, found America, and called the aborigines, or the people that were in America, Indians. I don't personally in my own—just as an individual, don't consider myself an Indian, any more than an Eskimo would say that I am Eskimo/Indian, or an Aleut would say Aleut/Indian, or an Athabascian would say Athabascian/Indian. It's possible they probably do say that, but one of the things I would just like to express is——

Senator ABOUREZK. What does "Tlingit" mean?

Mr. KATZEEK. "Tlingit" means people.

Senator ABOUREZK. Just people, that's all?

Mr. KATZEEK. Yes; and the thing that I would like to express some concern about is something that I have kind of been watching first of all, one, as a person who is self-employed. I'm a management consultant who had a number of jobs to work in the rural communities with, one, the State Department of Community and Regional Affairs; two, the Bureau of Indian Affairs; three, a lot of the regional, nonprofit Native corporations that are existing within the State of Alaska, the Tanana Chiefs Conference, the Bristol Bay Native Association, the Northwest Alaska Native Association and quite a bit of the State working with over 120 to 130 Native communities working at levels with respect to second class municipalities when the Alaska Native Claims Settlement Act was being implemented.

One of the things the Department of Community and Regional Affairs—or at that time was more known as the Local Affairs Agency under the Governor's office—implemented a program whereby they would work with the Native communities in developing second class municipalities because of a condition that was in the Alaska Native Claims Act.

One of the things that I saw that concerned me when I went to the bush areas and rural areas was the fact that it seemed to me like the

Federal Government and State government was more or less encouraging the development of a multitude of corporations at the community level. One, there was the IRA council; two, there was the second class municipalities; three, there was the various Native traditional councils; four, you name the different types of independent nonprofit type of corporations that were in the communities.

The majority of the people that were in these communities usually would change their hat when they were going to sit down and be—if they were going to be an IRA council member, or they would change their hat if they were going to be a village corporation member, or they would change their hat if they were going to be a first class or second class municipality.

The thing that concerns me concerning this thing is the fact that whatever the law has ended up doing, to me it seems like we have taken a piece of meat, so to speak and this may be a very crude example, and hung it up in front of all our people to fight for the bucks, for the dollars, the different ways in which they might be able to meet the social needs in their communities. I know and I realize that this is your concern as men who are responsible for legislation and so forth so that you would not cause this type of thing to be happening.

And the other thing that I am kind of concerned about, at least with southeast Alaska, the Tlingit and Haidas were before IRA councils were. Tlingit and Haidas were before ANB was. Tlingit and Haidas were before Tlingit and Haida Central Council was. The thing that concerns me is that we began to develop all these corporations and things of that nature—even at this stage, in order to meet some of our needs we develop the Tlingit and Haida Housing Authority, we develop the Southeast Alaska Regional Health Corp., we develop a variety of other organizations that are to meet various needs in the community.

The point that I'm coming from is with respect to management of the dollars, the limited amount of dollars, that people have to accomplish specific goals and objectives. And when you take those dollars and you put them to a place where everybody is fighting for those particular dollars and everybody—one person is going this way, another person is going this way, another person is going another direction, and things of that nature, you find that instead of having a common goal and an objective for a group of people to be working toward, you have people within another organization trying to opt for the dollars, to compete with one another. To me, this doesn't seem the people at the community level, at the regional level, and at the local levels as well as the regional levels.

I'm, first of all, one for regional; two, I'm for local government. I think that the responsibility is not only the Bureau of Indian Affairs but also the Tlingit and Haida Central Council. Not only these two organizations but the State of Alaska's various departments and divisions and agencies that they have to work toward a common goal of achieving objectives for the people that have been identified by the people at the community level, at the regional level and at the State level.

I think it is far too soon for us to be walking around saying, "I wonder who the tribal entity is. I wonder if this person is the tribal entity, or that person is the tribal entity." I think that when people organized the Tanana Chiefs Conference, when they organized the Tlingit and Haida Central Council, when they organized the Northwest Alaska Native Association, when they organized the different corporations that are regional, nonprofit corporations that work and elect people on an annual basis and things of that nature, I would say—I would say that these are the corporations to consider as recipients of the dollars that are going to be received.

Now, I have heard the question asked: Do you think Tlingit and Haida Central Council is doing it right? To me, the inference with respect to that question says this to me: What you're saying is, "Do you think Tlingit and Haida Central Council should be doing what they are doing, or aren't they doing it right, or are they doing it right? Do you agree with Tlingit and Haida Central Council?" When I say Tlingit and Haida Central Council, I think of Tlingit and Haida Central Council, a nation within a nation. Just because people disagree with Tlingit and Haida Central Council's policies and procedures does not mean that they want to do away with the organization which they've organized and represented. It only means that just as we are citizens of the United States and can disagree with the system and the things that happen does not mean that we want to do away with the Government of the United States. It means that we disagree with the procedures and the policies and the way things are going.

So, any more of you ask any of us as Tlingits, do we disagree with the policies of Tlingit and Haida, that does not mean that we want to do away with that government. It only means we may disagree with the policies.

And so, I don't know where to stop or what. This is one of the first times I've had an opportunity to come before such a distinguished group of men and appreciate the opportunity to express what I've had in my heart for a number of years. I've been in the management consulting business for 5 years and I've been traveling the States for almost equal to that number of years and I've gone to almost every community and I've seen some of the things that have developed at the community level when there is no coordination of effort to accomplish a common goal.

I think—I vote for the regional nonprofit corporation, and I also vote for the fact that the local community council government should also have a voice on what they are doing. It's a big job to do and I don't know what the answer is except I know that if we are talking about who is the tribal council in southeast, who is the tribal government in southeast Alaska, I would say the Tlingit and Haida Central Council is the tribal government body in southeast Alaska.

Senator ABOUREZK. I would say it's a very eloquent statement and I appreciate it very much.

Senator STEVENS. I'd have a question to follow up, if I might. From your experience in traveling around, you've seen what we've all seen and that is the proliferation of organizational effort. Have you come across any way that we could set up a framework whereby, again through a self-determination concept, that people of any particular area could consolidate, merge or eliminate on their own some of those duplicating entities that are competing? I know of one that's got four right now, and they are four different boards and they are competing.

They compete with us for assistance to get various programs, but I don't think we should tell them that they've got to disband any one. I would like to find a mechanism to give them an incentive to consolidate. Have you thought about that problem at all?

Mr. Katzeek. This might not come very close to what you're talking about. I would like to make this response with respect to that question in this way: When you're talking about a nation, and the Nation of the United States, and you pass a law that will provide certain amounts of appropriations and provide certain kinds of services and so forth and so on, you do not say, "Does North Carolina want to opt out on this thing here? And if you pass a referendum on this particular bill, then you can go and vie for it with your own efforts and things of that nature."

To me, when that kind of question is asked, what you're saying to me is, should Sitka secede from the Nation, should Angoon?

Senator Stevens. No, no. Don't misunderstand me.

Senator Abourezk. That's a whole different concept altogether.

Senator Stevens. We're not saying that.

Senator Abourezk. In fact, we do that on a Federal level, only we do it by withholding funds. We say any State can stay out of the billboard act, but they lose 10 percent of ther highway money if they stay out of it. We aren't even advocating that to the tribes. We're just saying, "Do you want to be involved in this regional government or not?" We haven't set up regional governments nationwide. We have State governments that were organized by themselves.

The difference between what happens in the Lower Forty Eight with regard to Federal funding of States and so on is that somehow the traditional way of tribal governments or village governments or whatever in Alaska has changed. And we have to figure out a way to deal with that change and that's why we're doing this today. The change hasn't occurred yet in the Lower Forty Eight. One of these days they are going to start trying to establish regional governments and then we're going to have to deal with it.

Senator Gravel. Could I add to that? I want to make sure I understood you. One of the punches you're making is that as we correct this definition that we have to mandate, we just can't throw this whole thing to you, and we have to make a decision on structure and you can normally function within structure.

Mr. Katzeek. I would agree with respect to that because the first thing that I could see with just throwing it out saying this and doing that is what you tend to do is cause brother to fight against brother for dollars. We're all brothers. Mr. Antioquia sitting here is, one way or another, he's Tlingit, he's my brother. It would be hard for us—I can pinpoint anyone. I know Mr. Borbridge's clan background, he knows my background and there's still an intricate—what I'm saying is that some of the things that are happening is you're dealing with a nation. This may have not been said before but I strongly believe that you're dealing with a nation within a nation and right at this regional level is the Tlingit and Haida nation.

Senator Stevens. Well, I think I've been misunderstood and I don't want to confuse it any more. What I am saying is that one of the ways to eliminate a question of referendum would be to find a way to bring about consolidation of the efforts of all of the existing entities for a particular type of program so that you would have one applicant for that particular type of program. It probably would work to a lesser extent down here than it would in some of the areas I mentioned up north where they do not have communication facilities, they do not have regular mail delivery, they do not have ferries and airplanes that come in daily and they are trying to find a way to meet the problems of national legislation where applications have to be on file by a particular date. We had this, exactly that problem. Clay will remember it. Applications were all received over a month late although they had been prepared and mailed on time.

Now, I'm saying that because you have traveled around the country and our country, up here, Alaska, so much, have you formed any opinion as to how, if you had the right to do it, you could give someone an incentive to consolidate some of these entities so you wouldn't have the problem of definition of a tribe. And, in effect, you would have self determination of what is a tribe in a particular area.

Mr. KATZEEK. OK. I can understand what you are referring to now. With respect to communities, if I can remember correctly and put them in the right order, such as Grayling, Shageluk and some of the other communities along the Yukon Kuskokwim area, I wouldn't see any problem with respect to these local organizations, be it the IRA council or members within their regional Native corporation, to form a coalition for the purpose of determining their needs in their particular area within their region and develop whether it be JOM program, health program, whatever the particular type of program. I could see them pooling their resources to achieve a greater, maximum impact on the needs and problems that they have in their area. If that's what you're referring to.

I've seriously considered that and in fact one of my reports I made I made a recommendation to that effect. I think it was with respect to the Department of Community and Regional Affairs.

Senator STEVENS. What kind of an entity would come out of your recommendation? Would it have been an entity or just a joint effort?

Mr. KATZEEK. I think it would be a joint—our recommendation was with respect to a joint effort by a group of communities that were geographically located—I think the term is contiguous, is that correct, I don't know—whatever. It's a big word. I don't know that well. But the thing is, those communities could come together for the main purpose of establishing at that level a central management for that particular area with their own planning staff, where their own people would be involved in operations and so forth and so on. There are a number of ways that you could do that.

Senator STEVENS. Thank you very much.

Senator GRAVEL. Would you submit some testimony in writing, if you have a bent to do that, and amplify some of your management concepts and the solutions we're talking about. I think it might be valuable.

Senator ABOUREZK. We would appreciate that very much.

Senator STEVENS. Are you talking about the city and county of Denver, or are you talking about the city and borough of Anchorage. These are the concepts that are on the move now. The question is, is there any way to foster that type of saving that would come about through unified administrative approach. And some of Mr. Antioquia's problem about the fractionalization of the JOM money, for instance, through too much administrative cost if every entity has a right to self determination.

Commissioner BORBRIDGE. I would be very interested in having the witness comment if he feels he can distinguish pretty well between the situation in southeast and the situation in the northern area. I, too, feel the same concern about on the one hand being very sympthetically disposed to the concept of self determination as a local thing, where people and organizations need to be involved and to learn from the doing even if it means in the process both making brilliant decisions and occasionally mistakes. Again, however, I appreciate that with respect to contracting, for example, I'm well aware that in contracting efforts between central council and the BIA area office that there are services which are sort of inter-branched and, as such, it's very difficult for the negotiating contract officer in the area office to be able to break out some of those costs and some of these are services that are provided, sometimes on an informal basis, wouldn't you say, Mr. Antioquia, and to attach a dollar value to each of the services, which are kind of support services paid to the southeast agency, for example, when it is all being done by the area. It's a very difficult thing.

I think the point I would make, therefore, is that even when the services are carefully broken out so that as with the central council they are, in fact, able to administer those services, there are, in fact, support costs which in my opinion aren't fully broken out, and, therefore, which are not available to the council. It leaves the council with the responsibility, as an example, of having to provide certain level of services but, frankly, with a little bit less support than the area office itself had at the same time. I'm concerned too about the structures in which it is understandable that accountability is a very important element, yet in an effort to require compliance with the strict letter of the law or regulations, this has a very definite tendency to inhibit a creative ability and to inhibit an innovative approach to the delivery of services.

The unfortunate thing is this was the being for the provision of the opportunity to contract by the Indians and the Natives, namely, that they could do it differently, they could do it better. Yet the fact is, they are being inhibited from this very thing.

I appreciate that the committee is addressing itself to this matter. I think we're on the verge of some very exciting innovative efforts, but all we need to do is give the Indians the opportunity to do those things that the Congress envisioned could be done and should be done.

Senator ABOUREZK. Thank you very much and we appreciate—if you'll send that to me in Washington, the ideas that you have, we would be very grateful.

Mr. KATZEEK. Who will have your address?

Senator ABOUREZK. Check with Senator Gravel's field office here. There's only a hundred of us in Washington. Just send it to Washington, D.C. and they will find us. [Statement not received in time to be included in the printed record.]

Senator GRAVEL. Jim Abourezk.

Mr. KATZEEK. In conclusion, I didn't mean to—I hope I didn't offend any of you men. I didn't mean to. It's just that for one of the few times, I think, in my life I kind of got a little emotional and I apologize for that. But, on the other hand, I don't apologize for the things that I said.

Senator Gravel. Do it more often.

Senator Abourezk. I thought I'd tell you, we've never heard anybody denounce us or criticize us before, so it was a shock. The hearings are in recess until tomorrow morning in Anchorage. Thank you all very much.

[Whereupon at 4:55 p.m. the subcommittee recessed, to reconvene Friday, September 3, 1976, at Anchorage, Alaska.]

PROBLEMS OF DEFINITION OF TRIBE IN ALASKA RELATING TO PUBLIC LAW 93-638

FRIDAY, SEPTEMBER 3, 1976

U.S. Senate,
Subcommittee on Indian Affairs,
of the Committee on Interior and Insular Affairs,
Anchorage, Alaska.

The subcommittee met, pursuant to notice, at 9 a.m., in the Loussac Library, Anchorage, Alaska, Hon. Jones Abourezk presiding.

Present: Senators Abourezk, Gravel, Stevens and Commissioner John Borbridge, American Indian Policy Review Commission.

Also present: Tony Strong, professional staff member.

OPENING STATEMENT OF HON. JAMES ABOUREZK, A U.S. SENATOR FROM THE STATE OF SOUTH DAKOTA

Senator Abourezk. The Indian Affairs Subcommittee hearing will come to order. My name is Senator James Abourezk from South Dakota. I'm chairman of the Indian Affairs Subcommittee. Just by way of a brief opening statement, I'm going to say that I'm here at the request of Senator Gravel and Senator Stevens to come up and try to iron out a problem of definition of "What is a tribal governing body?" For the purposes of the law which was passed a couple of years ago, 93-638, the Indian Self-Determination Act, which provides that Indian tribal governing bodies can contract for their own services with the U.S. Government. The problem in Alaska is that there are many different tribal governing entities that have been set up as a result of these Alaskan Native Claims Law, and many of them are competing for this right to contract and the Government is having difficulty in determining with which entity to deal. So, we're going to try to iron out some definitions today and in future hearings, and we have a list of witnesses that will hopefully will provide us with some more insight after our hearings in Juneau yesterday.

The hearings will continue in Bethel and in Fairbanks tomorrow as I have to return to South Dakota today. Sitting as ex-officio members of the Indian Affairs Subcommittee are Senator Mike Gravel of Alaska, Senator Stevens of Alaska, and also, since these are informally joint hearings between the American Indian Policy Review Commission and the Senate Interior Committee, a Commission member of the American Indian Policy Review Commission is sitting with us today and his name is John Borbridge from Juneau, Alaska, sitting over here on my left. And, I would like first of all, to ask Senator Gravel if he has an opening statement?

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STATEMENT OF HON. MIKE GRAVEL, A U.S. SENATOR FROM THE STATE OF ALASKA

Senator GRAVEL. Only to thank you, Jim for coming to Alaska. Not only will this serve to give you some grounding with respect to our particular problem of the definition of Indian under existing legislation, but it will give you some degree of grounding knowledge of the State to better equip you with respect to (d)(2) lands, which will be quite an important issue effecting not only the Native community in Alaska, but all the people of Alaska. We're personally grateful for your coming to the State and appreciate the attention that you have given to the subject. Ted, your turn.

Senator ABOUREZK. Senator Stevens.

STATEMENT OF HON. TED STEVENS, A U.S. SENATOR FROM THE STATE OF ALASKA

Senator STEVENS. I too, am happy that Senator Abourezk has responded to our request to go into this matter, it's a very simplistic one it looks like, but the more we get into the subject of who or which entity should be the equal governing body of a particular area for the purpose of the Federal law, the more difficult it becomes because of a series of acts passed by the Federal Government and also because of the traditions that have been developed among the Alaska Native people which is not the same as those that exist with identifiable Native tribes in the South Forty-Eight.

I'm hopeful that the people will realize that this is not just a sterile record, but a record of use of Alaska people that will be looked at by Congress to try and determine a solution, or at least to provide the framework so that the people involved can make their own decision of which entity should be the legal governing body for this purpose. And, I am one who believes that that does not necessarily have to be the same decision in every area of the State. There will be self-determination in the very making of the decision as to which entity or which organization will be looked to by particular Native groups as being the legal governing body, which is the same as the tribal organization in the South Forty-Eight.

Senator ABOUREZK. Thank you. John Borbridge, do you have a statement?

STATEMENT OF HON. JOHN BORBRIDGE, COMMISSIONER OF THE AMERICAN INDIAN POLICY REVIEW COMMISSION

Commissioner BORBRIDGE. Yes, I would like to add my appreciation to those extended by our Alaskan Senators to Chairman Abourezk for his willingness to have the hearings held in Alaska. Senator Abourezk sits not only as the chairman of the Subcommittee on Indian Affairs in the Senate, but also as chairman of the American Indian Policy Review Commission. As a Commissioner on that organization, I can state that we are concerned about the entire spectrum of issues emanating from the special relationship existing between Indians and the Alaska Natives and the Federal Government. To the extent that such issues are more sharply defined in the implementation of such legislation as the Indian Self-Determination Act and the Indian Financing Act and other related legislations, these are a matter of concern to the Commission.

It is hoped that this Commission which represents the first comprehensive effort, to redefine and to investigate this special relationship between the aborigines and the Federal Government; the first such since 1928 in the Merriam report. We're hopeful that the results will reflect in constructive legislation that will have a beneficial impact on that relationship.

To this extent, I am very pleased to participate in the hearings.

Senator ABOUREZK. Thank you. The first two witnesses testifying together are from the Alaska Federation of Natives, Sam Kito, president, and Gordon Jackson, executive director. I would like to welcome you both to the hearings, and if you're ready to proceed, we're ready to take your testimony.

Mr. KITO. Yes, sir.

STATEMENT OF SAM KITO, JR., PRESIDENT, ALASKA FEDERATION OF NATIVES, INC.; ACCOMPANIED BY GORDON JACKSON, EXECUTIVE DIRECTOR

Mr. KITO. Thank you, Mr. Chairman, members of the Indian Affairs Committee, Commissioner Borbridge. We're pleased to have you in Alaska to hear a cross section of testimony that addresses itself to the issue of the definition of trible organizations. I do have copies of our testimony that we would like to submit for the record and we will summarize our testimony and be happy to attempt to or address or respond to any questions that you may have.

Mr. Chairman, on behalf of the Alaska Federation of Natives, it's a pleasure to welcome you to Alaska. I'm sure that the information that you will find concerning the Indian tribe's definition in Alaska and the problems we have encountered with contracting, very useful in your deliberations.

The current definition of Indian tribes in Public Law 93-638 is causing a considerable amount of problem in Alaska. The current definition reads:

> Any Indian tribe, band, nation or other organized groups or community, including any Alaska Native village or regional or village corporation is defined in or established pursuant to the Alaska Native Claims Settlement Act which is recognized as eligible for the special programs and services provided by the United States to the Indians because of their status as Indians.

As the definition now reads, there could be as many as 466 tribes in Alaska and each Alaska Native is a member of at least 4 and as many as 5 tribes. Hence, legally, there is in Alaska some 466 tribes that could potentially request contract services under Public Law 93-638. This, of course, would be an impracticality and an absurdity even if substantial funding of a program where service would permit contracting at the village level for any given Native village to distinct organizations that claim to speak for the villages. The act does not prescribe how competing claims should be resolved.

I might interject, Mr. Chairman, that when you go back in history in Alaska, you would understand that the unities that were developed and evolved over a period of time for location was basically that these locations were for specific purposes. The nomadic tribes of Alaska used to travel on the rivers in the summer and the mountains for trapping, and I think that the location of the communities were for access along the rivers and coastlines for the most part, and were located because of some of the laws requiring mandated education. Therefore, in the past, Alaska has been treated differently from other Indian tribes to the extent that in the 1930's was a legislation or there was a law or regulation that was passed that identified the whole State of Alaska as a jurisdictional area. We did not move into the same situation as those Natives in the Lower Forty-Eight and end up on reservations with the exception of the few and maybe only Metlakatla Reservation that was developed specifically for people to live and reside on. I think the others for the most part were for experimental sake.

And, I think that as you look at it, you'll find that there are different types of organizational structures that you have to look at, and I believe that the organizational structures that develop themselves into representation organization on a region basis to represent from your informal counsels, the ability to represent that area regarding services that are going to be provided should be given very high consideration, and there has to be an option for the Commissioner of Indian Affairs and the Secretary of the Interior to waive any stringent definition or application of any laws on a nationwide basis as it relates to Alaska.

In addition, Mr. Chairman, to problems of which entities should represent the village is the uncertainty and divided legal opinion of whether or not the act definitions include the 12 Native nonprofit associations in Alaska. The nonprofit Native associations are the current delivery system for Public Law 93-638, however, they do seem to be left out.

Finally, the tribal consent provision regains signoffs from all tribal governments in Alaska. We recently submitted a proposal to the Bureau of Indian Affairs to contract for the operation of the Industrial Development and Tourism Division in Juneau, and their answer was basically to gather positive resolutions from 465 tribes costing well into the thousands of dollars. If there was a negative resolution, then it's quite possible that the Bureau of Indian Affairs would consider the contract vetoed, and somehow the language of the act should be clarified to appropriately apply the intent of the consent provision to the unique Alaska situation.

Chairman, I think what we're trying to say or what we would like to say rather, is that it seems that the definition of how to implement some of these acts by the Federal Government is one that looks for the most difficult way to do it. In other words, I think that they could have interpreted it to say, to offer, and if there is a negative response, you know, ask for a negative response or a positive response after you have proposed yourself to be the contractor, and if there isn't any objection then you proceed, but to gain resolutions from 466 communities indicates that in our interpretation of, you know, the Federal Government has not truthfully looked into how the act could be implemented in a more efficient manner. It seems to me that the department takes the tack that we would rather make it more difficult so that we don't end up contracting the services and we perpetuate ourselves rather than trying to assist themselves into going out of business.

A review of definitions of such tribes, or terms as tribes, Indians, and reservations in Federal legislation such as those in manpower, education, social services, health, and many others revealed extensive variations and definitions with no discernible justifications for the differences. We believe that the definition should be standardized collectively as they relate to the State of Alaska. We recommend that this be accomplished as soon as possible.

This is basically, Mr. Chairman, the extent of the summaries and we will cover—we do cover in more detail, some of the instances that we have overcome and we have come across in the past in our submitted testimony. And, Gordon and I would be happy to respond to any questions that you might have, Mr. Chairman.

Senator ABOUREZK. Thank you very much.

Senator STEVENS. You believe then that AFN is a governing body for the purpose of statewide services today?

Mr. KITO. Mr. Chairman, one thing I might say there is that one of the things that AFN has been doing, has been moving out of the direct delivery systems over the past year voluntarily, and the reason for this, Mr. Chairman, that was proposed prior to the time that we made this transition on the first of July, but if there are statewide advocacy positions to be taken or the regional associations do not want to get involved, then the board of directors of AFN would look into it. Right now we are structuring ourselves to develop into an organization that provides technical assistance on an as needed basis to the regional associations allowing the contracts for the operational programs to go directly to the—get closer to the delivery system, where those in the regions and the villages would have greater control over those programs. Now, we would address contracting, let's say, on a statewide basis only with the support of regional corporations and the nonprofit associations. Not until that was achieved would we attempt to enter into any contracts for services.

Senator ABOUREZK. Thank you.

Senator GRAVEL. So what you're actually doing, what you're asking the BIA to do, which is the basis of your criticism, why they haven't been more aggressive in doing it?

Mr. KITO. Yes, sir. I think that we felt that if we continued to be an operational contractor, that we would be another level of bureaucracy between the dollars being implemented in the field, and we felt that the faster we got out of the way that the more responsive those programs would be in the regional areas of the State.

Senator GRAVEL. I glean from your summary of your paper that you felt that there's more discretion in the hands of the Secretary, this could probably solve some of the conflicts, either hand deal in the specifics of the paper or give it some thought as to how it could be structured so it might not be a voluntary basis, that we would really have a way to really push program activity to the lowest level rather than rely upon the good judgment of executives, which is a capricious way of doing it?

Mr. KITO. Yes, sir, Senator. I think that as you look at the extent of what contracting means, contracting means that you are delegating your authority to the contractor to implement what you have outlined in the contract, unfortunately, that goes into another sphere of some of the problems that we feel that we've been having with the Bureau, and that's their feeling that they do not have the authority to contract certain decisionmaking to the contractor, and they have to retain that because the area director is ultimately responsible. Now, that's the bureau-wide policy. And, then what happens, you take it to the next level that certain things cannot be delegated to the area director because the Commissioner wants to retain that authority. And, I suppose, if one took that to its ultimate conclusion, one would have to say that nothing could be done regarding the implementation of any statutory law regarding regulations because the President finally reserves that administrative right because he is mandated by the act to be the person that is solely responsible.

Now, I think what happens is that there has to be a determination in the executive branch that says, "* * * that we can contract a certain authority away, and we can make determinations, as to how this act could work. "* * * And, we can make determinations, and based on—they say, * * * well, our solicitor tells us that this is wrong," well, I think in the lawyer's jargon, you know, that's probably the only field where there are 50 percent winners and 50 percent losers in any case that goes to court, you know, in other words, right around in thta area, but for a winner, there's always a loser, you know, and I think in our case, we can speak with very much authority I suppose, if we beat the Secretary and the solicitor more times than he's beaten us. And, sometimes, you know, they say legally that this is as far as they can go, well, I'm not too sure that we should be going to the same horse to find the legal information for them to make decisions. Now, I find that they do have authority in certain instances to make decisions and you can challenge them into court, but I find it difficult as to the reasons of why they don't make decisions that we may not challenge in court that they say are against the law, you know, if you follow the rationalization that they utilize in their decisionmaking process, it's quite difficult to follow at times.

The overall question about who can contract is one whereby you handle on a regional basis and you can ask, you know, the question, "Are there any others in this region that want to contract?" You'll respond within a specified period of time, you know, why didn't they take that option? Well, they didn't take that option, they took the other option that said they had to go out and chase down the interior of Alaska and going on 35 or 70 resolutions that were affirmative before you could move the contract. I don't think that there's any worry that the regional profit corporations would compete with the nonprofit associations for contracting when you look at the definition or the designation of a sole-source contractor. We're all looking at the delivery of systems and we're all looking at how it better can be achieved.

Commissioner BORBRIDGE. I note your comment that as a condition of contracting, there is a requirement of an audit which in turn is a determination of the veracity of the reporting on the expenditure funds and the compliance with certain regulations. I also note the concern that you expressed that there doesn't appear to accompany these requirements, any substantive discussions as to the quality of the delivery of services or as to what the impact has been on the recipients of the programs themselves. So, I would like to, for the record, just to establish several facts, and beginning the inquiry would be this; as you understand that why would the Alaska Natives want to contract for various services? In other words, you have certain desires that you feel you can implement, certain things that you can accomplish, what would some of the primary ones be, Sam?

Mr. KITO. Well, I think that the primary reason to contract would be that the organizational structure that has the contract would respond more quickly to the change in needs, so that you yourself could have an ongoing evaluation with the organizational structure to the villages or to the people that says whether or not you are doing it right or wrong. Now, I think, you know, what we are trying to say too, is that regarding the audit, we have an ongoing audit with every program on a monthly basis because these contracts are cost reimbursable contracts and we do not have somebody that says or does the evaluation overall or responsible within the agency that says, "What kind of services are going to be delivered and how are they being delivered?"

Commissioner BORBRIDGE. Within the terms then of the actual program that is contracted for, going in as the organization does, with the desire to be innovative, to be more sensitive to the needs of the people, to improve the delivery of services, and looking at the conditions that are attached to the contract, looking at how the negotiations and audit would be, do you feel that the Native organizations have the fullest possible opportunity to achieve the objectives that cause them to go into contracting?

Mr. KITO. No; they don't. And, the reason they don't is because they're restricted by the language of the contract, that if they do start looking at innovative things to implement, they are in violation of the contract and those portions that relate to money are not going to be reimbursed by the contracting agencies. You know, the documents that you end up in utilizing the contract look like a, you know, a book, some of them are about 100 to 150 pages long indicating what your restrictions are, and they really talk about the inability of developing flexibility in order to deliver the product in an innovative way, yes.

Commissioner BORBRIDGE. Then it would be accurate to say that the conditions of the contracts are actually such that the Native organizations, while wanting to be innovated and to improve the services and to reflect the sensitivity of their insight into the needs of the people they represent, actually are pretty much required to deliver the services in almost precisely the same manner as they were delivered by the Bureau of Indian Affairs, is that right?

Mr. KITO. Yes; it doesn't change that much. You might want to comment on that too, Gordon?

Mr. JACKSON. Yes; most of the programs that are delivered, you know, the same kind of rules and regulations come with it. And, also talking about restrictions, we recently signed a technical assistance contract to provide TA to the new prime contractors for Johnson-O'Malley services. And, the present way in which prime contractors are to receive TA from the Alaska Federation of Natives, is that a request goes to the Bureau of Indian Affairs and then the Bureau of Indian Affairs submits the technical assistance request to the Alaska

Federation of Natives. That contracting has been going since the 1st of July, and we have yet to receive a technical assistance request, however, at the same time, regional corporations are screaming, saying that we need technical assistance in the development of our contract proposal, putting together our fiscal system within the organizations and things like that.

Commissioner Borbridge. Just one more question on this, Mr. Jackson. How would you describe or characterize a negotiating session with respect to contracting? Is it sort of a mutually satisfactory type of an enterprise or is it more of an adversary proceeding, for example, relative to the overhead rate and other expenses? I'm trying to view this from the position of the Alaska Natives, who wanting to contract, in order to deliver the services at least as effectively as the Bureau, must have the same financial and other backup as the Bureau itself had when they themselves were delivering the services directly.

Mr. Kito. Mr. Borbridge, contracting is very trying and it's very much a confrontation situation, and I think that one of the things that needs to be developed and stay developed is the statewide advocacy and the statewide form for how those negotiations take place, because one of the most serious problems that has evolved over the past few years is in the area of the indirect cost of the contract, and you know, they put a top limit on what the dollar is at the beginning and you start negotiating for flexibility and you find that you don't get the flexibility, then you get down to the bottom line and they start, you know, negotiating how much they can pay for indirect costs. And, some of the nonprofits that have gotten in trouble were because of the low indirect cost rates that they have accepted in order to manage the contracts. Specifically, any example, the University of Alaska—I use this as an example because they have an indirect cost rate with, that's audited by the Federal Government that says that they can charge with Federal agencies 58 to 62 percent of the total salaries for administrative support, which is basically indirect cost.

And you talk about, you know, the total contracts for awhile that were negotiated by the regional nonprofit associations were somewhere in the order of 3 percent, and that was the maximum to the extent that for awhile there it was, you know, take 3 percent or leave it. Well, a lot of them wanted to provide the services, but I think that what happened was was that they found that their administrative structure was not going to be able to sustain itself on that administrative cost rate. So that now the proposal which they are moving toward accepting is an audited indirect cost rate that would be acceptable, that would be audited after a period of time. But it's only been after a lot of pressure, a lot of negotiations, you know. But I think that that is something that, you know, that we are obviously concerned with on a continuing basis is how negotiations take place and whether or not that those that are negotiating are actually negotiating the conclusion of what the area director has determined to be what he wants to do. And that's to contract this program wih such and such an agency, you know.

Senator Abourezk. Thank you.

Senator Gravel. Do you have any, I must say, any comments why technical assistance has not been more aggressive in moving into the region of the village level?

Mr. **Kito**. We're providing it, but we're providing it on our own volition. See, we—you know, I think what Gordon was saying is that we signed a contract that said that all requests for technical assistance would go through the Bureau and come to us.

Senator **Gravel**. I was thinking of your reflections on the Bureau, not only your own experience with yourselves.

Mr. **Kito**. Well, I've been—what we're saying is, what we're saying is this, that the technical assistance regarding the implementation of a contract should have two types of people providing technical assistance to the contractor. One that says that there are options within that contract that you can exercise. Not to have technical assistance to come straight from the agency that has the contract, because obviously those that are going to provide that technical assistance from the contractee, in this case the Bureau of Indian Affairs, are going to be predisposed as to what determinations and what limits that contractor has in the flexibility of what he wants to do, the contractor wants to do with the contract to develop, let's say, innovative systems or even to say that, that the contractor has some discretion. You know, in other words you need somebody else to tell you, other than the fox that's guarding the henhouse, you know, what your options are regarding this contract, and how you can comply and be in compliance with the contract that you do have.

Senator **Gravel**. Thank you.

Senator **Abourezk**. Do you have anything else?

Mr. **Kito**. No, Mr. Chairman, that's it.

Senator **Abourezk**. I want to thank you both very much for your appearance. We appreciate the contribution you've made at the hearings on this question.

Mr. **Kito**. Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Kito and attachments follow:]

STATEMENT OF SAM KITO, JR., PRESIDENT, ALASKA FEDERATION OF NATIVES, INC.

Mr. Chairman, members of the Indian Affairs Subcommittee, and Senate Committee on Interior and Insular Affairs, and staff.

A few months ago, the Alaska Federation of Natives initiated a proposal to the Bureau of Indian Affairs to contract for the operation of the Industrial Development and Tourism Division, Juneau Area Office. We felt it was within the scope of the Indian Self-Determination and Education Assistance Act. The Bureau responded by stating that it was within the scope of activities provided by Public Law 93–638. However, before our ambition was realized, a resolution of the governing body was sufficient to enable the tribe and the BIA to take the first step leading to the contract. Because the program would affect more than one tribe, they required authorized resolutions from every tribe throughout Alaska.

On a separate contract proposal, we wanted to place an education specialist we had been contracting with the past several years from the Bureau of Indian Affairs in our Alaska Student Higher Education Offices within the Alaska Federation of Natives (AFN). We felt the results would be better coordination and delivery of programs and services to Alaska Natives. The Bureau's response was, "it is a significant change in the content of your program, and to initiate that change requires your securing of resolutions from all tribes in Alaska."

Finally, we wanted to contract with the Bureau of Indian Affairs to provide Technical Assistance to new Johnson-O'Malley prime contractors throughout Alaska. Assistance is a very real and immediate need in providing program planning, development, contract administration, accounting systems, cost reimbursable contracts, and many others to Regions and Villages. We were fortunate to receive the contract but now we have reason to believe the Bureau is now withholding all Technical Assistance requests from the AFN so they can say within several months, "the program is not justified and the contract must be terminated." While they are playing their games, our other Technical Assistance staff, funded through other sources, is working seven days a week to keep up with the demand.

This is self-determination in Alaska. The central goal of providing an efficient and realistic means of contracting BIA and IHS programs and services is at a stand still, until our problem of the "Indian tribe" definition and tribal consent provision is positively addressed to reflect the Alaskan program delivery system.

You are aware of the definition of "Indian tribes" in Public Law 93-638. "Indian tribe" means any Indian tribe, nation, or other organized group or community, including any Alaska Native village or region or village corporation as deferred in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Excepting the underlined portion, the definition previously stated is a conventional one. The underlined addition is a recognition on the part of the acts draftsman that Alaska's tribes are different from those found in the lower 48 States, the language represents an attempt to accommodate Alaska's unique circumstances.

As the definition now reads, there could be as many as 466 tribes in Alaska and each Alaska Native is a member of at least four and possibly as many as five. The possible Alaska tribes can be organized into five basic categories:

(1) 145 traditional councils (all Alaska villages receiving BIA services which have not organized under the Indian Reorganization Act (IRA) or the Alaska Reorganization Act.);

(2) 70 Native villages and groups (such as the Kenaitze Indians of Kenai) who have organized under IRA;

(3) Two tribes: the Tlingit and Haida Central Council and Tanana Chiefs Conference established pursuant to federal statutes;

(4) 225 Native villages defined in or established pursuant to the Alaska Native Claims Settlement Act;

(5) 210 Native village corporations defined in or established pursuant to the Settlement Act; or or,

(6) 12 regional corporations defined in or established pursuant to the Settlement Act.

It is unclear who decides, or how one would decide which of the possible groups defined in or established pursuant to the Settlement Act (categories 4, 5, 6) would be recognized as tribes since the organizations identified in categories 1 and 2 are already recognized as tribes. The recognition of the Settlement Act simply adds to the list. Hence, 465 tribes could potentially request to contract services in Alaska.

Add to this the "tribal consent" provision requiring consent of all tribes prior to contracting leaves Alaska at a stand-still in the implementation of an Act we lauded when it passed last year. To contract for the Industrial Development and Tourism Division, Bureau of Indian Affairs for instance, requires positive consent of all 465 tribes in Alaska according to BIA interpretation. This would mean spending thousands to secure those resolutions. Should one not consent, there is a real possibility that the Bureau could cry "veto".

Other problems we have experienced with Public Law 93-638 include the fact that Alaska's delivery system for Public Law 93-638 activities is not included in the definition of Indian Tribes. The Non-Profit Native Associations have contracted for health, education, and social services the past decade. Yet the definition excludes their participation.

Indirect or overhead costs is a problem. Many Non-Profit Native Associations have determined an indirect rate by audit. The Bureau of Indian Affairs and other Federal agencies have the attitude that indirect rates are merely a "rip-off". The result is the Bureau of Indian Affairs offering contracts to Native Associations for 3 percent or 0 percent indirect overhead. With the pressure on the Association by the people for services, the contract is accepted at far less than the audited rate. The result is usually a deficit or audit exception due to borrowing from other programs to pay for the administrative costs of a low overhead-approved program. As long as the attitude of "rip-off" persists, Alaska and the Nation will continue to see bankrupt non-profit associations who went in debt due to negotiations dictated by Bureau and IHS personal attitudes toward indirect and overhead.

Cost reimburseable contracts cost a lot of money to administer. There are program reporting requirements and you must spend money to be reimbursed for services. As a non-profit corporate delivery system, there is little cash flow requiring the cumbersome task of advances and liquidation. To be reimbursed requires all back-up and budget line items to insure it is part of the program. It is time consuming and takes more personnel to keep up with reimbursements, budget and contract modifications, cash flow, and many, many others. There must be a more efficient system of contracting that will require fewer people, less overhead, and more services to people.

Every year the Bureau and Indian Health Service request a Federal audit of our contracts to determine whether we complied with the contract and fiscal requirements. This is fine. However, our concern and point regarding Federal audits is that contracting is a two-way street. We have obligations to fulfill under the contract and so does the Bureau. We sign the document and so does the Bureau. Yet the only obligation to be audited is ours. Who audits the Bureau? Indian Health Service? Who audits them to determine whether they fulfilled their obligations? Whether it was the Bureaucracy that caused confusion resulting in many exceptions throughout Alaska. Whether they are implementing Public Law 93–638 to the best of their ability? At this point it would appear to be no one. Should there be a mechanism to audit Federal agencies similar to our audits? I'm sure the result would be a more responsive and effective bureaucracy, not only here in Alaska, but throughout the Nation. Should the Federal agency not comply with recommendations, Congress can then take appropriate action.

Training and technical assistance is an immediate need here in Alaska. In addition to the passage of Public Law 93–638, there are other laws which require many more trained and educated personnel. Some of them include the Alaska Native Claims Settlement Act requiring administrators, board members, accountants, clerks, attorneys, land planners, and many more. An Alaska State law, Senate Bill 35, decentralized an Anchorage-based State Operated School System and created 21 Regional Education Attendance Areas in the Alaska Unorganized Borough. The Regional Attendance Areas are for all purposes local school districts. Manpower needs include board members, administrators, teachers, negotiators, clerks, accountants and many others. Public Law 93–638 needs are almost the same in addition to contract compliance officers, doctors, nurses, accountants, and the list goes on and on. To satisfy the immediate manpower needs, career development, training, and technical assistance is needed today in Alaska.

Why two sets of regulations for one law? In some Alaska Native Associations, they administer both BIA and IHS programs. They sit in the same office but yet administration of the programs, whose authority comes from the same law—Public Law 93–638, is different. Why? It doesn't make any sense but sure causes confusion. Such a dilemna is very similar to the "tribal consent" provision—democracy and majority rules, except when it comes to Indians.

Finally, there is no consistency throughout the Federal programs such as housing, social services, manpower, regarding definitions as they relate to Alaska. Unfortunately, rather than contribute to a standardization of definitions, the Self-Determination Act adds one more set of unique definitions to the Federal statutes. A review of definitions of terms such "tribes", "Indian", and "reservation" in the Indian Financing Act, Comprehensive Employment and Training Act, Indian Education Act, Title IV, and many others reveal extensive variations in definitions with no suitable justification for the differences. Standardizing definitions of these three terms as they apply to Alaska's circumstances would contribute substantially to maximizing participation and control of Federal programs designed for Native well-being.

Thank you very much for the opportunity to discuss with you the experiences and problems with Public Law 93–638 here in Alaska. Once the problems are resolved, self-determination will indeed be reality in Alaska.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
Juneau, Alaska, March 12, 1976

SAM KITO, *President,*
Alaska Federation of Natives,
Anchorage, Alaska

DEAR SAM: AFN's interest in contracting for the operation of the Industrial Development and Tourism Division of the Juneau Area Office is, of course, within the scope of activities provided for by the Indian Self-Determination and Education Assistance Act of 1975 (Public Law 93–638). However, there are practical considerations to be taken into account before your ambition can be realized. As you know, if an Indian tribe wishes to assume responsibility for BIA functions affecting that tribe only, a resolution of the tribal governing body is sufficient to enable the tribe and the BIA to take the first step leading to a contract. If, however, a tribe or organization proposes to assume BIA functions affecting more than one tribe the following applies (25 USC 271.18(a)) ". . . if a tribal organization is applying for a contract to perform services benefiting more than one tribe, an authorizing resolution from each tribal governing body must be obtained before submitting the application to the Bureau for approval."

Also, 271.2(h) "Indian Tribe" means any Indian Tribe . . . including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is federally recognized as eligible by the United States Government through the Secretary for the special programs and services provided by the Secretary to Indians because of their status as Indians."

Accordingly, it would be necessary, prior to entering into discussion with the BIA regarding the contract which your organization proposes, for the approval of each village served by the Juneau Area Office to be obtained. A resolution of the village council or other recognized governing body would be required in each case.

I am sure you can understand the necessity for affirmation by those affected by any proposal to contract for their Bureau of Indian Affairs services by an agency other than their own village or corporation.

It is suggested that an alternative method of accomplishing proposal objectives is through the use of self-determination grants. Mr. Davis' proposal notations regarding the reorganization and restructuring of certain resources and centralized, coordinated efforts to test suggestions indicates that some initial planning and/or redesigning may be a feasible approach to assumption of an area-wide program.

More information on self-determination grants is available through Tribal Operations Office, John Hope, Branch Chief, P.O. Box 3–8000, Juneau, Alaska 99802, Telephone: 856–7198.

Please advise us if we can be of further assistance to you.

Sincerely yours,

——— ———,
Acting Area Director.

ALASKA FEDERATION OF NATIVES, INC.,
Anchorage, Alaska, November 11, 1975.

CLAY ANTIOQUIA,
Area Director, Bureau of Indian Affairs,
Juneau, Alaska

DEAR MR. ANTIOQUIA: The purpose of this proposal is to describe the methods to be pursued by the Alaska Federation of Natives, Inc. to perform the functions of the Bureau's Industrial and Tourism Development Division. It is AFN, Inc.' intent to contract with the Bureau of Indian Affairs to provide the services of this program.

The Alaska Federation of Natives, Inc. is a non-profit corporation designed to assist Native people in the implementation of the Alaska Native Land Claim Settlement Act. All of the twelve regional corporations are members of the Federation. There are several departments within AFN, Inc. Among them is Technical Assistance which is funded through a H.E.W. Grant from the Office of Native American Programs. The major thrust of the program is to respond to requests for assistance from village and regional corporations, and Native associations, business' and individuals. The primary areas of emphasis have been: Business Development, Program Development in Education, Manpower and Housing, Training Programs and Community Planning.

A more complete summary of the Technical Assistance program and AFN, Inc. as a whole can be found in the annual report in the Appendix of this proposal. The AFN, Inc. Technical Assistance program is designed to assist Native entrepreneurs with business development projects. It is felt that a coordinated effort with the BIA's program would result in a more comprehensive and beneficial approach to meeting the needs of the Native community as they pursue economic

independence and self-determination. The Technical Assistance program presently serves groups, individuals and villages throughout the State. A broad communication network between the program and the Native community has evolved with a crying need for assistance being expressed. Please keep this variable in mind as you review the proposal since communication is perhaps the most vital prerequisite in establishing a working relationship with members of the Native community.

This proposal includes discussion of the major areas of need in relation to industrial development within the Native community. At this pivotal point in the history of Alaska this community is being impacted by change very rapidly. These changes are occuring not only in relation to cultural modifications and land ownership, but also in economic stratification. As the subsistence economy of Native people shifts to accommodate and incorporate components of a cash economy major industries in Alaska are affected. The primary industries of concern to Native people include, but are not limited to fisheries, timber, handicrafts, tourism and reindeer.

Under this proposal, the primary effort of AFN, Inc. would be to develop state-wide Native organizations to maximize return on investments in the areas mentioned above. The focus is placed on these industries because they will be receiving the least amount of attention during this volatile period of oil development. This is in no way intended to diminish the importance of oil development to the Native community, but merely recognizes the plethora of agencies, committees, departments and corporations who are examining the ramifications of and potential for expansion of the oil industry in Alaska. We seek to avoid any duplication in this area.

Sincerely,

MAC DAVIS, *Director*.

Senator ABOUREZK. The next witness is Frances Degnan. Is Frances here? Frances, I'd like to welcome you to the subcommittee hearings. Do you have a statement you want to present first?

Ms. DEGNAN. I just have an oral statement.

Senator ABOUREZK. All right. Would you pull the microphone a little closer so it will be easier to hear?

Ms. DEGNAN. Yes.

STATEMENT OF FRANCES DEGNAN, TREASURER, UNALAKLEET NATIVE VILLAGE COUNCIL

Ms. DEGNAN. I just have an oral statement. I came in from Unalakleet, and I wanted to thank you for this opportunity to appear before you this morning. And I'm glad that you're all here.

I'm representing the Native Village of Unalakleet, which is an Eskimo village about 150 miles southwest of Nome. It's on the Norton Sound, and I'm treasurer of the Native Village Council of Unalakleet, which is an IRA council. And through this council representing 600 Alaskan Eskimos we have looked at contracting with the Bureau of Indian Affairs for quite a few years.

And when the council heard about the hearings scheduled in Alaska, they asked, you know, if I could attend to see what's going on and also to present, if we had the opportunity, just a brief statement from the Native Village of Unalakleet.

Our definition of tribe falls into the category of individual village. We feel that the individual villages have a right to decide whether or not they want to go into contracting and they should be a legally recognized enity as a governing body.

Unalakleet was organized as a coun—or a council village since 1938, and has IRA council until 1974 when Unalakleet became incorporated as a State municipality, was a governing body and continues to be the governing body for the village purposes. And it has been active council and has retained the status in the local community.

We have looked with our four sister villages of Koyuk, Shaktolik, St. Michael and Stebbins very seriously contracting together as a group, because of the incentives that may be awarded through getting together and looking at contracting under the new Self Determination Act. So, we've been studying as much as we can, and not everybody can go through, you know, the heavy application process and we're looking at training our local council people so that they can make adequate and reasonable decisions. And this is what we feel is the most important thing, so that we can decide whether we'd be the prime contractor for services which are being provided by the Bureau of Indian Affairs, but because of lack of better communications, transportation and travel funds for Bureau staff, that many times these services don't come right down to the village.

And we're looking at that community development. The villages have been out there for centuries, they're going to stay out there and the Bureau doesn't provide for all the services and, but the services are available as you request them. So, as each village in our group identifies their needs, we feel that we can assist the Bureau or we can do it ourselves, if that's the case.

The village corporations are also there. We have the IRA council, the village corporation and also the State municipality. These are three bodies that exist in our five villages. And so it has been agreed by the communities that the IRA council would be the one to contract for Bureau of Indian services or other Federal programs. If this is what the community wants. And we won't dispute regional recognition as such, but we feel villages should be consulted first and they should be the decisionmakers.

Senator **Abourezk**. Do you have a regional organization out there?

Ms. **Degnan**. Yes; we belong to the Bering Straits Regional Corporation and also Koyuk, which is the nonprofit organization for social and educational services.

Senator **Abourezk**. You do have a nonprofit regional organization?

Ms. **Degnan**. Yes; we do.

Senator **Abourezk**. There's something I don't know maybe you can answer or the Senators can answer. Is there a nonprofit regional organization existing throughout Alaska, does every region have a voluntary nonprofit organization?

Ms. **Degnan**. Yes, I believe they do.

Senator **Abourezk**. All right. What would you think—I appreciate your saying that you think the government on the village level ought to be the basic level of decisionmaking. I agree with that. How would you feel if, in view of the fact that there is a nonprofit regional group, that if for purposes of contracting under the Self Determination Act, if the villages thought that there was a project that needed to go beyond the village level that they could then voluntarily turn it over to the regional level for handling for contracting? Would that be a good workable system?

Ms. **Degnan**. I think it would be posible, you know, determining what type of program you're going into and what scope it is, and if it was beyond the village, if you included the whole region.

Senator **Abourezk**. What if there were a hospital that existed to serve more than one village, an Indian health service hospital, how would you handle that? Would you do that on a village level for contracting or would you ask the region to take care of it?

Ms. **Degnan**. I believe that would—if, for the whole region I believe it would go to the regional——

Senator **Abourezk**. What if it were for just part of the region?

Ms. **Degnan**. Well, you have subregiona areas, you know, the 5 to 10 village grouping, that I think every village would, because of transportation and communication you would have—you can't get a hospital in every community. And there's—we've been trying to get a hospital up in our region for years and still, you know, are having a very difficult time.

Senator **Abourezk**. I know. I'm just using that as an example.

Ms. **Degnan**. For health purposes and probably for region wide educational service unit, I could see going to regional.

Senator **Abourezk**. You think that would be workable with the villages to be willing not to compete for the contract on a service such as that?

Ms. **Degnan**. I believe so. It can be worked out. And—But the essential ingredient is that each village know what they're getting into and know their rights under the contracting and what latitudes that they have, because currently all you have is the law and the regulation. And, really, we haven't gone into contracting as yet in our area. But the important thing is that each village and it knows its rights and responsibilities and what, you know, what they are into.

Senator **Gravel**. Just pursuing that same point because that was the area that I had the most question, was trying to rely, for instance, on your experience which has been quite a number of years in this area. How would we—the problem is to structure this in legislation and structure it in such a way that you guarantee implementation and at the same time provide choice by the people. Could you have a mutual —let's say, the major area of conflict, leaving out the BIA—I think we can solve that problem more easily. But a decision between the region, a regional organization, and the village as to who should render a service, who should do the program activity. Obviously some programs would lend themselves well and be more efficiently provided through a regional concept. And many other, obviously, would be more effective if they are right at the village level, which is the case that you're making. And you've just qualified it in response to Senator Abourezk's question.

Could we—do you think this would work from your experience? If we had a mutual veto so that it was structured so those—see, otherwise you're just relying upon the good will of executives and the hope that they will make intelligent judgments. So, trying to set up a structure that will work regardless of who's in charge.

If you had a situation of mutual veto where a program could not be undertaken without the acquiescence of the village and the region and then vice versa, so that you have to guarantee a mutual agreement in the implementation of any program in a given area to a given set of people. Do you think that could, would suffer some dangers of being destructive or reach an impasse or do you think that people would generally gravitate towards saying, well, we both have to agree; now I think that this might be better accomplished by the village as opposed to the region. What would be your comments on that?

Ms. **Degnan**. I think that would work. It's already working in the area of health up in our area.

Senator **Gravel**. But there's no mandatory. Is there a mandatory——

Ms. **Degnan**. No.

Senator **Gravel** [continuing.] Veto either way?

Ms. **Degnan**. No. But where— in the Bering Straits area we have 18 villages that fall within the regional corporation areas of nonprofit and profit. And each of the communities know what their needs are and what they want, and as, you know, transportation gets better and communication gets better, that your needs and wants will increase. And at the same time with delivery of services, you want to be equitable and to give the same, you know, opportunities for each of the communities. But the community—Unalakleet is the largest one other than Nome. In our area they average about 150 people per village. And St. Lawrence Island is another large community. But each of the villages have their very definite needs, which aren't being met either by services by the Federal and State because of, you know, poor transportation and poor communication, and isolation factor. But the important thing for, as far as we can see, as far as the Indian Self Determination Act goes, that each village will know what they're getting into and that they decide, other than, you know, just hearing about it and somebody else is getting a good deal, and why, you know, couldn't we take advantage of what's available to us. And the decision being in the local community.

And I don't think we'd have any problem when it comes to health delivery services or educational delivery services, because we're all working toward the same end is to make good viable community, to continue, and this is another—we are continuing to look at the Indian Self Determination Act to see how we can utilize it or if it is worthwhile.

Senator **Gravel**. Thank you very much, Frances.

Senator **Stevens**. Frances, do you think the pressure for the efficiency, as you mention, for instance in the grouping of villages you talk about, does that pressure come about from the villages themselves or from the BIA to affect the economies and administration?

Ms. **Degnan**. I'd say the pressure would come from the people themselves, because of, in their learning about different opportunities that may be available, and simply because they want to continue to have their communities good places to live in.

Senator **Stevens**. So really what you're telling us is that the Unalakleet area would opt for the contract going to the village or to the smallest groupings of villages before you would support the regional concept as an exclusive contracting agency for the villages in your area, right?

Ms. **Degnan**. What we're saying is that we are an identified tribe of completely individual villages.

Senator **Stevens**. You would not support a definition that would include the larger area also and a regional nonprofit arm being recognized as a governing body for a particular purpose?

Ms. **Degnan**. Well, it depends on how you go about it. If the consensus is with all the villages as, you know, trying and seeing that we authorized the tribal organization recognized as a nonprofit to, you know, go into the contracting in certain area.

Senator **Stevens**. That would be a delegated authority——

Ms. **Degnan**. Yes.

Senator **Stevens** [continuing]. From the villages up to the regional area?

Ms. **Degnan**. Right.

Senator **Stevens**. Thank you.

Commissioner **Borbridge**. Just pursuing that line of inquiry, because I'm trying to establish in my own mind whether you're advocating a position whereby the villages have a—be endowed with a tribal governing body status so that they will be eligible and whether at the same time you feel that the same definition might apply to a regional body, maybe your nonprofit, and that the matter of working out the approach to a specific contract either as a provision in the contract required by legislation or something that could be worked out between the villages and the region, do you feel that both the villages and the region of which you are a member ought to have this authority to contract and to be recognized as a tribal governing body? I wasn't quite clear on your previous answer.

Ms. **Degnan**. I believe that—we believe that the villages would be the tribal governing body and the regional nonprofit would be the tribal organization that would—this is my interpretation of the definitions within the regulations, that the tribal body, which are the villages, would authorize the regional nonprofit and give them the okay to contract.

Commissioner **Borbridge**. I see. So that there'd be a delegation——

Ms. **Degnan**. Yes.

Commissioner **Borbridge** [continuing]. Of that authority, but the only tribal governing body would be the villages?

Ms. **Degnan**. Right.

Commissioner **Borbridge**. So that in the previous example given with respect to, say, a hospital, something that has a regional application, this would operate in the same way?

Ms. **Degnan**. Yes.

Commissioner **Borbridge**. Thank you.

Ms. **Degnan**. This way we feel that it ties in each of the local communities and enhances the services and that way we have everybody have the opportunity to know what type of services are available and what, and tie into this—not saying it doesn't exist as it goes now, but then to have that, have it come down to the local community.

Commissioner **Borbridge**. The next question you may not be able to answer, and if so just indicate. Do you have any sense of what the position of the regional is or has this matter been discussed in the regional, Bering Straits?

Ms. **Degnan**. What I'm bringing out to you today is strictly from the community of Unalakleet.

Commissioner **Borbidge**. Right, I apppreciate that.

Ms. **Degnan**. As a portion of the Bering Straits, but this is just Unalakleet.

Commissioner **Borbridge**. OK, thank you.

Senator **Abourezk**. Thank you very much, Frances, for excellent testimony.

Ms. Degnan. Thank you.

Senator Abourezk. The next witness is Jeanmarie Larson of the Cook Inlet Native Association. I'd like to welcome you to the subcommittee hearings.

Ms. Larson. Thank you very much.

Senator Abourezk. Do you have a prepared statement?

Ms. Larson. Yes, I do. I don't know how well the microphone is working here.

Senator Abourezk. You have to hold it pretty close. You can take it out of that holder if you want to get up closer to the microphone.

Ms. Larson. Mr. Chairman——

Senator Abourezk. Are you going to read the entire statement or did you plan to summarize it?

Ms. Larson. I plan to read it. It's not really too long. In order to clarify our position I would like to read it.

Senator Abourezk. Fine.

STATEMENT OF JEANMARIE LARSON, PRESIDENT, COOK INLET NATIVE ASSOCIATION

Ms. Larson. Mr. Chairman, members of the committee, I am pleased to have the opportunity to testify today, especially in light of the fact that the Cook Inlet Native Association is presently engaged in the contracting process with the Bureau of Indian Affairs and IHS.

Before I address the issues that are the concern of this committee, I would like to discuss the absence of village people at this hearing from the Cook Inlet region. The Indian Self-Determination and Education Assistance Act and the subsequent rules and regulations are fairly complex material. The act and the regulations really only take on meaning by constantly working with them. As most villages are not involved in the day-to-day process, it is difficult for village people to have specific concerns on which they could testify. By the time we received the telegram announcing the hearing, it was too late to arrange for village people to meet to give them the background they would have wanted in order to prepare testimony. Also, we simply do not have the resources to pay their way to attend.

The Cook Inlet Native Association was organized in 1964. As one of the first Native organizations in the State, CINA was a motivating force in the establishment of the Alaska Native Claims Settlement Act. Originally CINA provided programs and services to Alaskan Natives in just the Anchorage area. In August 1974, CINA was designated as the nonprofit arm of Cook Inlet Region, Inc. and, as a result, we have had the responsibility of representing Natives throughout the region. Within that area there are approximately 11,000 Alaskan Natives. Our program budget for this year is about $2.5 million and we expect that the programs for the upcoming year will be in excess of $3 million. Two of the programs—social services and employment assistance-origin services—are operated under contract with the Bureau. After 3 years of trying, CINA assumed operational control of the programs October 1, 1975. We have submitted contract applications under Public Law 93–638 for social services and employment assistance (origin and destination) with the intent of beginning the new contracts as of October 1, 1976.

The intent of Public Law 93-638, of course, is to insure that Native Americans have the opportunity to provide direction to BIA and IHS programs. One method for that is to contract to operate those programs. At this time we see two impediments to contracting, the definition of Indian tribe and the present organization structure of BIA and IHS.

If Indian tribes are to be the primary source for requesting contracts, it is logical, in Alaska, that those bodies who are most likely to contract be designated as Indian tribes. The essential fact of the Alaskan situation is that regional nonprofit associations are the most likely vehicles for contracting. Yet, they are the only Native organizations which are not designated as tribes. The first step that must be taken then is to amend the law to include regional nonprofits in the definition of Indian tribes. I want to emphasize that this in no way should be construed to mean that villages should be removed from the definition. We feel that it is important that villages retain the authority that they presently have by virtue of their designation as tribes.

Assuming that both villages and regional nonprofits are designated as tribes, the problem of gathering supporting resolutions for contract applications from the villages still remains. While this is not insurmountable in the Cook Inlet region, because there are only six villages, it still presents logistical difficulties which are magnified many times over in some of the other regions. In this case, we would support a change in the regulations put forth by the Tanana Chiefs Conference. That proposal would say that a resolution by the village would only be required to register dissent. There is precedent for this procedure in section 271.20, which covers the method for recontracting. The relevant part of that section reads:

> If * * * none of the tribal governing bodies provide the appropriate Bureau office with a formal resolution objecting to the application to recontract, the absence of such receipts of such resolutions shall constitute the tribe's request to contract.

Language similar to the above quote should be developed for initial contracts, thereby simplifying the application process while still retaining the ultimate authority which a village should have over programs operating within its jurisdiction.

I would like to briefly outline a potential problem for contracting that arises from the way BIA and IHS have divided the State for the purposes of service delivery. For example, the BIA Anchorage Agency encompasses six different regions. It is quite probable that there will not be sufficient funds within that particular agency to allow contracting with each region. Declination of contract applications on the basis of inadequate financial resources is a distinct possibility in this case. Are we, or any of the other six regions, to be penalized in our efforts to contract because of the way that service divisions were established by BIA or IHS? While the problem has not arisen, as of yet, it should not be considered academic. It will be a reality in the near future and a solution must be developed soon. I would hate to see the Self-Determination Act be the cause of interregional conflict and that is exactly what it will be if a solution is not found.

The rules and regulations governing the Johnson-O'Malley program are adequate except for section 273.31, which deals with the distribution formula. The Bureau has determined that contractors will only receive per capita allotments for those students actually served on or before October 31 of the new fiscal year. While that method might sound fine in theory, once put into practice it proves to be unworkable. Many programs are either designed on an open entrance—open exit basis or to work with different students at different times of the year. These programs will be penalized and, in fact, rendered inoperable by a funding level established by a count in October.

Quality programs that wish to target spending on a smaller number of students cannot be instituted under the present allocation system. To us, the only reasonable alternative is to allocate funds on a straight per capita basis and then let the parent committee decide whether to design a program for all students or to concentrate on a smaller number. I see that title II of the Indian Self-Determination and Education Assistance Act called for an analysis of the allocation of funds by October 1, 1975. I suggest that this committee ought to look again into this area.

I would like to briefly touch on section 104 and the Bureau's implementation of that program. Attached is a copy of our letter of protest to the Commissioner and his response. While we were pleased with the Commissioner's willingness to reconsider the Bureau's original stance, two questions still remain. The first is the fact that the Bureau's regulations are in conflict with the law. Section 104(a) states that grants may be made to a tribal organization upon the request of the tribe. The regulations seem to say that only the governing body of an Indian tribe may apply for and receive a grant (section 272.11). The second point is the deviation of the Bureau from their own procedural guidelines on the allocation of grant funds. As you can see, the Commissioner's letter says that the funds will be based on the portion of Cook Inlet region membership residing in the region outside of the villages. We have Alaskan Natives from all 12 regions residing in Anchorage, but under the Commissioner's decision only those enrolled to Cook Inlet region will be counted. The procedural guidelines are quite clear that residence is the critical questions, not tribal membership.

Although I may seem critical of the Bureau's handling of the grant program, at least the Commissioner and other Bureau personnel are attempting to implement the program and to listen and act on legitimate protests. Up till this point we have not heard one piece of accurate information from the Indian health service regarding their grant program. Does anyone know what IHS plans to do with the 104 money? This is a serious question that needs a prompt answer.

Now that the regulations have been in effect for approximately 9 months and the law has been on the books for over 1½ years, it seems reasonable to look at the record of BIA and IHS in their implementation efforts. Overall, we feel that the Bureau has acted in a commendable fashion. There appears to be a commitment to the intent of the act and the Bureau's efforts have been generally of a positive nature.

Unfortunately, I cannot make the same statement about the Indian health service. The idea that it is the prerogative of the Native groups to determine the manner in which contracts are implemented has not yet become a part of the thinking of IHS personnel. To my knowledge there are no IHS contracts in the State which have been let under the authority of Public Law 93–638. There has been no effort to inform Native organizations of contracting procedures under 638 and, in effect, contracting continues on the same basis as it has prior to enactment of the law. In fact, the situation has deteriorated to the point that the association of regional health directors has submitted a list of grievances to IHS regarding contracting. That list is attached. Moreover, we have been told that all contracts from now on will be cost reimbursable which is in direct conflict with the Indian health service's own manual on contracting procedures. If I were to attempt to describe the gyrations that we have had to go through with IHS in the recent past on relatively simple contracts it would take more time than we have today.

Yet, if I may, I would like to cite one recent example to illustrate my point. Not long ago CINA received a telegram from the Alaska Area Native Health Service announcing that negotiations on all of our health contracts were scheduled for 2 days after the arrival of that particular telegram. Obviously, our feelings are that we were not given ample notification to adequately plan for the preparation and development of proposals and appropriate budgets relative to our five existing health programs.

That is one example of difficulties that we have had with the Indian health service. Seemingly, the policies within the health service here in Alaska have not been defined, and depending upon the official that you speak to, you get a different answer each time. That is basically the position of Cook Inlet Native Association.

I'd be happy to try to answer any questions that you might have.

Senator ABOUREZK. Thank you, Ted?

Senator STEVENS. No, I don't have any questions. It's a very good statement.

Senator GRAVEL. It's an excellent statement.

Commissioner BORBRIDGE. It's very comprehensive and well set forth to the extent that I don't have any questions.

Senator ABOUREZK. I can't believe that three senators and a commissioner can't think of something to say. Well, we want to thank you very much for a very good statement. We appreciate your appearing here today.

Ms. LARSON. Thank you.

Senator ABOUREZK. Thank you.

[The attachments to Ms. Larson's prepared statement follow:]

COOK INLET NATIVE ASSOCIATION,
Anchorage, Alaska, May 13, 1976.

COMMISSIONER MORRIS THOMPSON,
Juneau Area Office,
Juneau, Alaska

DEAR COMMISSIONER THOMPSON: We are writing to protest what we understand to be the Bureau's implementation of Section 104 of the Indian Self-Determination Act. The Bureau's allocation method will seriously reduce the amount of grant money coming to Alaska and therefore impair the ability of Alaska Natives to utilize Public Law 93–638. Our understanding of the Bureau's position is that only villages will be eligible to apply for grant funds under Section 104. The consequence of this decision is readily apparent for the Cook Inlet Region. There are approximately eleven thousand (11,000) to twelve thousand (12,000) Alaskan Natives residing in this region. Of that number, only 1,595 are enrolled to villages. You can see that approximately 9,500 Alaskan Natives are being discounted in the allocation of grant money in this region alone.

We, of course, support direct grants to villages. Such a system should not, however, exclude the making of grants to regional corporations or associations. The Act and Rules and Regulations for Public Law 93-638 are very clear regarding the eligibility of regional corporations for Section 104 funds. Furthermore, the regional corporation could in turn, make a subgrant to the regional non-profit association to carry out the purposes of the grant (see Sec. 272.26). Neither of these options are presently available under the allocation plan. It should be added that the definition of an eligible grantee in the rules and regulations are somewhat in conflict with the law. Section 104(a) of Public Law 93-638 says "The Secretary of the Interior is authorized, upon the request of any Indian tribe . . . to contract with or make a grant or grants to any *tribal organization* . . ."(emphasis added). Section 272.11 of the rules, however, only mentions the governing body of any Indian tribe as being eligible. It appears to us that the flexibility given to Indian tribes in the law itself and in other parts of the rules and regulations to designate a tribal organization as the grant recipient is being withheld, contrary to congressional intent.

One of the major purposes of the grant program is to ". . . improve the capacity of a *tribal organization* (emphasis added) to enter into a contract or contracts pursuant to Section 102 of this Act and the additional costs associated with the initial years of operations under such a contract or contracts." (Sec. 140(a)(2)). It is a commonly accepted fact that the bulk of the contracting that BIA will do in Alaska will be with the regional non-profit associations, yet they are effectively excluded from applying for grant funds. How does BIA square its' decision on the allocation of the grant money with the obvious intent of the law, and indeed, its' own rules and regulations?

We request your review of this important issue and an alteration of what looks to be present bureau policy regarding the distribution of Section 104 grant funds.

We are looking forward to your reply.

Sincerely,

JEANMARIE LARSON,
President/Executive Director,
Cook Inlet Native Association.
ROY HUHNDORF,
President, Cook Inlet Region, Inc.

U.S. DEPARTMENT OF THE INTERIOR,
Bureau of Indian Affairs,
Washington, D.C., July 1, 1976.

MS. JEANMARIE LARSON,
President/Executive Director,
Cook Inlet Native Association,
Anchorage, Alaska.

DEAR MS. LARSON: This will acknowledge receipt of your May 13 letter in which you and Mr. Roy Huhndorf of the Cook Inlet Region, Inc., protested the Bureau's proposed system for allocation of self-determination grant funds authorized under Section 104 of Public Law 93-638. Briefly, under our announced plan of allocation, funding of such grants would not have been available for the benefit of a substantial portion of the Alaska Native population residing in the greater Anchorage area.

You will be pleased to [illegible] a result of your letter we have re-examined our position and ha[illegible] a decision which is essentially in accord with your thinking on the matter. Consequently, we shall provide an allocation for self-determination grant funds for the Cook Inlet Region, Inc., which is based on that portion of its membership actually residing in the Region, exclusive of the villages for which allocations have already been made.

To move forward on this the Cook Inlet Region, Inc. should contact our Juneau Area Office with whom we will be working closely to determine the eligible population and corresponding dollar figure as soon as possible. Based on this amount, the Cook Inlet Region is invited to submit a grant application, which should comply with 25 CFR, parts 272 and 276. Complete guidelines on the grants program may be obtained from the Bureau's Agency office in Anchorage, as well as answers to questions you may have concerning it.

Thank you for calling this matter to our attention.

Sincerely yours,

MORRIS THOMPSON,
Commissioner of Indian Affairs.

ALASKA FEDERATION OF NATIVES, INC.,
Anchorage, Alaska.

Re fiscal year 1977 Contract Negotiations with the Region Native Organization.

GERALD IVEY,
Area Director, Alaska Area Native Health Service,
Anchorage, Alaska.

DEAR MR. IVEY: Pursuant to the directive of the Association of Regional Health Directors in their August 20th meeting held in the AFN Inc. Conference Room at which time a quorum was present and the actions taken were during the "General Session", I am herewith, forwarding to you the following list of grievances in regards to how the fiscal year 1977 contracts negotiations were conducted. The so-called negotiations were conducted between the office of Community Health Development and the Regions from August 1, through 16, 1976.

(1) A policy be established by IHS to notify the region a minimum of 15 days prior to any contract negotiations. Furthermore that IHS convey to the Regions as to the content of what is to be negotiated to insure preparating time for the Regions to negotiate the contract.

Reason.—Many of the Regions felt that they were not given sufficient advance notice to negotiate the contract. Some were given as much as 2 days notice that they were to negotiate the contract.

(2) That the Regional Health Corporation/Non-profit organizations be afforded legal council and that the costs incurred be an allowable cost in the contracts and a representative from AFN, Inc., be present during in and all the negotiations.

Reason.—Practically all of the Regions did not have legal council during the so-called negotiations with the exception of Tanana Chiefs Conference, Inc.

(3) IHS and ARHD's establish a Task Force for criteria for fund allocation and that IHS adhere to these fund allocations in contracting with the region.

Reason.—Fund allocation as determined by the ARHD's during the spring meeting was not adhered to, resulting in the IHS personnel to make arbitrary decisions on Regional entitlements.

(4) A clearer definition of the Project Director and the Contracting Officer be strictly adhered to by the IHS personnel during all the negotiations and that all project officers be present during the negotiations.

Reason.—Many of the contracts were negotiated (both technical aspects and Price) without the presence of the Contracting Officer.

(5) No misleading or deceptive information be practiced by IHS personnel (A–OCD) during the so-called negotiations.

Reason.—Many of the Regions felt such misleading and deceptive information was conveyed to them during the so-called negotiations.

(6) Proper attendance of IHS personnel be adhered to during the negotiations.

Reason.—Self explanatory.

(7) There was lack of professionalism on the part of IHS personnel (A–OCD) which affronts the personal dignity of the representative of the Regional Native organizations.

Reason.—Some derogatory statements were made by IHS personnel regarding various Native organizations which provoked regional desertions.

(8) IHS conducting negotiations in detrimental manner for future directors which could result in bad relationships between IHS and the Native organization.

Reason.—Self-explanatory.

It was for these reasons cited above that the ARHD's as the receptive of their respective regions by majority vote and during the "General Session" on the evening of August 20, 1976 formally took the following actions.

(1) Nullify current contracting process for process for Fiscal Year 1977.

(2) ARHD's meet with the Area Director, Deputy Director and the Executive Officer to determine confirmed dollars available for Fiscal 1977 contracts.

(3) Reconvene ARHD's to determine Regional Contract allocation.

(4) Renegotiate Fiscal Year 1977 contracts with legal council with representative from AFN Inc. present during in and all negotiations.

It is the sincerest desire of the ARHD's to come to a constructive resolution of this matter in a manner of mutual respect for all parties. Therefore, ARHD's is requesting to meet with you, your Deputy Director, Executive Officer, Contracting Officer, Chief Finance Branch and Area Office of Community Development personnel on the afternoon of August 30, 1976 commencing at 2 p.m. in your conference room. It is understood that such a meeting will occur on the date and time set above.

Sincerely,

CARL JACK, *Director.*

Senator ABOUREZK. Is Cliff Black here yet? Greg Brelsford, I understand, will not appear. The next witness then is Vera Skaflestad. Is Vera here?

Ms. SKAFLESTAD. I've got a statement I'm going to read.

Senator ABOUREZK. OK. How long is the statement?

Ms. SKAFLESTAD. It probably is about 10 minutes or less.

Senator ABOUREZK. OK.

Ms. SKAFLESTAD. I'm not going to go into the background that I have just the—my statement is on the problems and concerns of the Aleut League in contrasting Public Law 93-638.

Senator ABOUREZK. Vera, I wonder if you would pull that microphone a little bit closer to you——

Ms. SKAFLESTAD. OK.

Senator ABOUREZK [continuing]. So it will be easier to hear.

Ms. SKAFLESTAD. OK.

STATEMENT OF VERA SKAFLESTAD, EXECUTIVE DIRECTOR, ALEUT LEAGUE

Ms. SKAFLESTAD. The Aleut League has been in existence since 1972. During this period of time it has attempted to work closely with the villages in the region and setting programs which were requested by them. The board of directors of the Aleut League have given a strong direction to the management and in fact followed a philosophy which in the act cited as the Indian Self-Determination and Education Assistance Act.

The act has resulted in some definite changes in attitude and direction in the State of Alaska. This is reflected most positively in the Federal and State agencies. One of the greatest concerns I would have about this is that the people who should be most involved are not completely aware of the possibilities which are theirs. There is no doubt in my mind that many programs would be initiated at the local level if people knew they were available to them.

It appears to me that provisions should be made to hold workshops. not only in Anchorage areas for regional organizations but at local levels so that people at this level are made aware of the possibilities and can better make decisions, which according to the act are theirs to make.

It is difficult and next to impossible for regional Native nonprofit corporations to get this information to the villages due to a lack of personnel and a lack of sufficient money available. Corresponding also has proved to be insufficient.

In past experiences in contracting under Public Law 93-638, the Aleut League has experienced many problems. Since our organization is nonprofit, we essentially never have any working capital. We hire people to provide certain services, which we have a contract for, but quite often we do not know how we will meet the payroll due to many factors that can arise. I think the cost-reimbursable system of contracting is impractical and degrading to the villages to which programs are being offered. It poses many problems and essentially causes the initial programs to suffer. There must be a more realistic approach with accountability on the grants being met and the actual money made available without all the problems which arise with this cost-reimbursable system.

If in fact the act is going to be implemented, money has to be made available to administer these programs. There is a never-ending fight with contractors about administrative costs even when audited reports clearly show what the actual costs are. Even HEW rates which are established are not considered acceptable by the contractors. Promises have been made from the Bureau that their auditors would come into our organization and establish an overhead rate. But unfortunately this has never happened either.

AFN has shown a great insight in their decision not to exist as a statewide prime contractor for education and health programs to further implement this act. My question is, why haven't the other statewide central agencies followed this initiative? It has proven to be impractical if not impossible for one agency to be everything to every region and every village which needs help in the entire State. Although the regional nonprofit organizations cannot possibly cover all needs which exist, they at least know the people, their problems, and have close working relationships with them.

When technical assistance is available our region usually is bypassed because of the high cost and the time involved. It, again, is impossible to give assistance on a statewide basis. Rather than using the money for another group to house this type of program, it would be more practical to give this to the region who can in turn hire the expertise to give the technical assistance. This is a more realistic and practical approach, at least in our region. The Bureau sometimes compounds problems for grantees in implementing contracts by their failure of an adequate monitoring system and by their failure to give the necessary technical assistance needed.

The future of the Aleut League will change as the local villages are trained toward their own responsibilities in every phase of social, political, and economic conditions which affect them. We realize that local control of village affairs will have made self-determination a reality.

I didn't give the background of our region, but I have it included in here.

Senator **Abourezk**. Thank you. It will be included in the record. Senator Stevens.

Senator **Stevens**. You're basically saying that so far as your Aleut League is concerned there's a general acceptance of your villages to the point of view that you expressed there, that a regional tribal entity would be best for your—Is that right?

Mr. **Skaflestad**. For most of the smaller villages, yes.

Senator **Stevens**. They'd be willing to accept that?

Ms. **Skaflestad**. Yes; I feel that we, in fact, wouldn't be in existence if there wasn't a need for the regional organization. But there seems to be for the smaller villages. However, the larger villages are becoming more knowledgeable and aren't able to do work contracting on their own. But we still—there still seems to be a need for a regional organization, at least for the smaller villages in our region.

Senator **Stevens**. Thank you. Do you believe that the regional organization ought to have prior consent before it applies for contract for the particular type of service for a village? In other words, do you support the concept that the villages themselves would be the tribal entities and they would delegate power to the regional entity to the extent they wanted to do it?

Ms. **Skaflestad**. Yes; they have indicated this, right.

Senator **Stevens**. Is that generally the position throughout your region?

Ms. **Skaflestad**. Yes.

Senator **Stevens**. Thank you.

Senator **Abourezk**. Senator Gravel.

Senator **Gravel**. No; I think it's been very clear.

Senator **Abourezk**. John?

Commissioner **Borbridge**. With respect to the delivery of services under the contract, do you feel that you have an adequate opportunity to improve delivery of services or to affect them in some way because you are a Native organization or do you find this to be a very difficult thing to accomplish? In other words, as you enter into a contract there is a requirement for an audit and there's confirmation of the reports on expenditure funds and compliance with basic regulations. Most Native reorganizations enter into the contract simply because they feel they can do the job better, then? Do you feel that you——

Ms. **Skaflestad**. Yes.

Commissioner **Borbridge** [continuing]. Actually have the opportunity to do the job better?

Ms. **Skaflestad**. Yes; I do.

Commissioner **Borbridge**. Thank you.

Senator **Abourezk**. Vera, thank you very much. We appreciate your appearance and your statement.

Ms. **Skaflestad**. Thank you.

[The background referred to by Ms. Skaflestad follows:]

INTRODUCTION

West by Southwest of the main body of Alaska, anchored to the depths of the North Pacific Ocean and the Bering Sea, the Aleutian Chain is the rugged home of the Aleut people. For thousands of years, the seafaring Aleut shave fished and hunted the ocean mammals for survival in the water surrounding their homes. Sparsley populated, the islands have some 2,000 Native residents whose village communities are spread out over 1,500 miles of the Aleutian Chain westward from Nelson Lagoon and Sand Point and on the Pribilof Islands in the Bering Sea.

The Aleutians have aptly been referred to as the "Climate factory of the World" and the "Cradle of the Storms." Temperatures are mild, but high wind, rain, fog, and snow frequently slow the daily activities of living. Winds can reach 120 miles per hour, and strong gusts up to 200 m.p.h. are not unknown. Blizzards are common through the winters, and wind driven, horizontal rain is a frequent occurrence.

Travel is difficult and expensive. Reeve Aleutian Airways makes flights three times a week to Sand Point, King Cove, and Unalaksa; Nikolski, St. Paul, Akutan, and False Pass are serviced once a week; Atka depends upon a Navy tug to bring passengers, food, and mail once a month; National Marine Fisheries makes a flight once each month to St. George; and Belkofski can be reached by boat or air charter only. Travel is totally dependent upon weather conditions. As many as nine flights in a row have been cancelled to Unalaska in a one month period and St. Paul has gone as long as three weeks without air service.

The lifestyle of the Aleut people has been greatly altered over the past 200 years. The influences of the Russians, beginning early in the 18th Century, had a tremendous impact on the lives of the Aleutian peoples. The Russian-American Company, a trading firm, virtually enslaved the Aleuts to help hunt sea mammals for pelts, the result being the near extinction of the sea otter and the decimation of the Aleut population. By the 1850's, the Russian government had taken over a large part of the Russian-American Company's affairs and the governing power. The Aleuts were recognized citizens of Russia by the time of Alaska's purchase by the United States in 1867.

American companies became interested in the rich Aleutian fisheries and a number of canneries were built. The Aleutian Chain was of strategic importance to the United States during World War II and a large number of military installations were built, most of which were abandoned after the war.

Today, commercial fishing and fish-processing form the basic economy of the Aleutians along with the carefully controlled fur sealing on the Pribilofs. In addition, there is a substantial military presence at a few isolated installations on the Chain.

The passage of the Alaska Native Land Claims Settlement Act in 1972 and the establishment of the Aleut Corporation and the non-profit arm, the Aleut League, have brought further changes for the Aleut people. A new spirit of self-determination is on the rise and the Aleut people will have an opportunity to become a significant force in the determination of their own destiny. It also means great responsibilities. To fulfill such responsibilities requires education and training.

BACKGROUND

The median family income of the Natives in the area is $8,357 which is 33 percent or $4,086 below the $12,443 median income for the total population in Alaska. Eleven percent of the Native families had family income less than $3,000 and 26 percent had family income of less than $5,000.

Seventeen percent of the Native families had family incomes that were below the poverty index level. This compares to 9.3 percent of the families below the poverty level for the state of Alaska. Of the Native families in the Aleut Corporation area, 4.6 percent earned less than half enough to reach the non-poverty level, and of the families with the head of the household being over 65 years of age, 53 percent had family income below the poverty level.

Unemployment for Natives in the area is relatively high as 25 percent of the Native males in the labor force were unemployed. This is eight times more than the white males in the area that were unemployed, and is two and one-half times higher than the unemployment rate for the state of Alaska which was a little over 10 percent. Forty-three percent of the employed Natives work for the federal government and 36 percent work for private companies. Only about 2 percent of the Natives are self-employed. Almost half of the employed Natives are in the craftsmen and operatives occupations. Besides a high unemployment rate most of the Natives that are underemployed. The median income for Natives by occupations is much lower than the median income for whites employed in the same occupation.

The median grade completed for Natives 25 years of age and over in the Aleut Corporation area was 7.5 compared to 12.6 for the white population in the area. This means that on the average, the Natives have reached their level of formal education before reaching the eighth grade while the white population will have reached 12.6 years of schooling. In the same category, 56 percent of the Natives will have completed their formal education before reaching the eight grade compared to 2 percent for the white population. Only 8 percent of the Natives had completed some college training compared to 32 percent for the white population in the area.

THE ALEUTIAN/PRIBILOF SCHOOL DISTRICTS

School district	Village school	Grades	Number of students	Number of teachers
District 8, Aleutian region	Akutan	1 to 8	11	1
	Atka	1 to 8	15	1
	Belkofski	1 to 8	8	1
	False Pass	1 to 8	8	1
	Nelson Lagoon	1 to 8	11	1
	Nikolski	1 to 8	10	1
	Sand Point	K to 12	130	8
District 9, Pribilof region	St. Paul	K to 10	152	8
	St. George	1 to 8	34	2
District 10, Adak	Adak	K to 12	[1] 633	34
Independent school district, district of King Cove.	King Cove	K to 12	120	9
Independent school district, district of Unalaska.	Unalaska	K to 12	120	9

[1] 5 Aleuts.

Senator ABOUREZK. The next witness is Frank Peterson of the Kodiak Native Association. Is Frank here? Frank, we'd like to welcome you to the hearings. Do you have a prepared statement or are you just going to speak off the top of your head?

Mr. PETERSON. Mr. Chairman, I do not have a prepared statement, because of the problems of the indirect rate development that some of our regional nonprofits are experiencing. But I would like to mention a few comments here and then if there is time allowable after the hearings, I'd like to also submit a written testimony.

Senator ABOUREZK. We will hold the record open for 30 days for anybody who wants to submit statements for the record.

STATEMENT OF FRANK PETERSON, EXECUTIVE DIRECTOR, KODIAK AREA NATIVE ASSOCIATION

Mr. PETERSON. Mr. Chairman, on behalf of the board of directors of the Kodiak Area Native Association I appreciate the opportunity to be able to express a few concerns about Public Law 93–638, the problems of the tribal definition and the problems of the programs that come along with that particular piece of legislation in the form of contracts, grants, et cetera. Now, it is my understanding that the purpose of Public Law 93–638 is for revision of social service oriented programs, primarily to Indian or Alaskan Native groups. It's also understood that that particular piece of legislation is to provide the determination on the part of the Indians or Alaska Native people the authority and decisionmaking process to administer or implement the programs to the best of the abilities of the Indians or Alaska Native groups. These are my understandings of that particular law.

But looking at it from where I sit as executive director of the Kodiak Area Native Association, trying to understand how we can best implement social service programs to the people who need certain services, including health social services, housing, et cetera that are available through this legislation, I see that this particular legislation creates and perpetuates some bureaucratic monsters within our Federal agencies resembling what I might relate to as many guys who determine, who are in a position to determine whether or not a village, a region, a village corporation or a regional profit corporation will be the administrator of programs under this particular piece of legislation.

While on the other hand it proliferates the authority and decisionmaking process of the people that this legislation is designed to assist in alleviating some of the social problems that we have within the State.

There are certain concerns that we have. One is the accountability question. I note that there's been several instances here where someone testifying or asking question related to accountabilities. Fiscally whoever is the entity that is administering programs funded through either Indian Health Service or the Bureau of Indian Affairs or through the auspices of 638 are required to go through stringent regulations in the contracting process before an entity can effectively administer a program through the contract. It is a difficult problem. Let me just relate one instance here just completed this week, or this past week. In order to get any program funds for a particular program since we were formally notified of the availability of funds, we have had to rewrite the contract proposal five times, which has taken us the past 3 months or so to finally accomplish.

Senator **Abourezk**. Which contract is that?

Mr. **Peterson**. This is for the Indian Health Service contract.

Commissioner **Borbridge**. I might ask a question, Mr. Chairman, if I might.

Senator **Abourezk**. Go ahead.

Commissioner **Borbridge**. When you were asked to rewrite the program, was this delegated to the organization to accomplish solely by itself with its own personnel or was it a matter in which—the IHS was it——

Mr. **Peterson**. Yes.

Commissioner **Borbridge** [continuing]. Personnel worked with you to insure that the revision was satisfactory?

Mr. **Peterson**. Well, in most part it was—we were asked or required to rewrite the proposal here in Anchorage and in no instance do I recall that any representative of that agency came to our region to work with us in developing that contract.

Commissioner **Borbridge**. And you're headquartered in Kodiak?

Mr. **Peterson**. Yes; in Kodiak.

Commissioner **Borbridge**. OK, thank you.

Mr. **Peterson**. That is one instance that I want to relate. We have not by our own options pursued any contracts under or from within the Bureau of Indian Affairs as yet.

Getting back to the concern I had about accountability, to be accountable fiscally is quite an undertaking for any entity that is new in administration of certain programs funded by either the State or Federal Government, because of the stringent regulations that come along with these contracts. There is more concern on the part of the agency that lets out the contract for fiscal accountability than there is for programmatic accountability.

The concern of the board of directors, of course, is more in programmatic accountability because of the services that come along with these contracts. So, on the part of the administering entity we are stuck with the problems of being fiscally accountable to the agency letting out the contracts as well as being stuck with the programmatic accountability, the people that we are providing the services to. I have no problem there providing that the structure of the entity contracting also has the accountability to the people that the programs are serving, as well as to get the direction. In some instances right now the entity that I belong to and administer programs through, we do have certain number of board members who are elected at large, which presents a small problem for us. Because those members at large really are not accountable to any agency or any group within the region, nor are they required to get any direction from any entity in order to make these programs successful. Hopefully, after our annual meeting that particular problem will be resolved.

Going down on my discussion list here, I note with one exception that most of the discussion here presented to the committee is related primarily to contracts. I note the particular absence to any discussion to the grants that are available under Public Law 93-638, and I would hope that the responsible governing or responsible agencies involved in Public Law 93-638 would consider utilizing the grant options within that particular legislation.

I also note the absence of any discussion regarding contracting, any options that are available under contracting. I note that most of the discussion is related to cost reimbursable type contracts. I think the responsible agencies here also should consider other options available such as fixed price contracting.

On my last comment, something that I don't have any facts to back me up on my concern is I think that the Native community in the State of Alaska should have some voice as to the budget developments, program distribution that currently exist in the State of Alaska primarily in the Indian Health Service total area budget, as well as the Bureau of Indian Affairs budget for the State of Alaska. I mention this because I understand that in the State of Alaska the total budget for the Indian Health Service exceeds $40 million, for the whole State of Alaska. I also understand that the total budget for the Bureau of Indian Affairs in the State of Alaska exceeds $40 million. I also understand that the Bureau of Indian Affairs' budget for the State of Alaska being $40 million, $20 million is allocated to the area office and the other $20 million throughout the State of Alaska. Now, to me that is not quite equitable, and I think there should be some mechanism addressed or established so that the Native community has some participation in the development of the budget for both the Indian Health Service and the Bureau of Indian Affairs.

Mr. Chairman, this concludes my comments, and I'll be happy to submit a written testimony within the 30-day period.

Senator **Abourezk**. That'll be very good. Thank you. [Statement was not received in time to be included in the record.]

Does anybody have any questions?

Senator **Gravel**. Not I. Thank you very much.

Senator **Abourezk**. Thank you very much for your statement and we'll wait for your testimony to be submitted. The next witness is Dean Olson. Is Dean here? Dennis Tiepelman? Dennis, I'd like to welcome you to the subcommittee hearings. Do you have a written statement?

Mr. **Tiepelman**. Yes.

Senator **Abourezk**. And how long is that statement, Dennis?

Mr. **Tiepelman**. If I read it, it would probably take about 5 or 10 minutes, but I'll just make a couple comments that I wish you to note on the papers that I have.

Senator **Abourezk**. All right.

STATEMENT OF DENNIS TIEPELMAN, PRESIDENT, MAUNELUK ASSOCIATION, KOTZEBUE, ALASKA

Mr. **Tiepelman**. I think one of the problems that we have with the definition of Indian tribe is that so many different people can get into the act, and a region our size has 11 villages. And there is 11 village IRA councils we have to deal with, and we have the regional corporation and we haven't even gotten into any kind of tribal organizations, and we have trouble trying to get all these different tribal governing bodies to agree as to who's going to deliver the kind of services that can be split so many different ways, because you just lose the value of the money.

What we've done in our region is attempted to make sure that everybody knows what they're getting involved in and kind of split the type of activities that they're going to have. Prior to my attendance down here I met with John Schaeffer, president of NANA Regional Corp., and I also met with Tommy Sheldon, Senior, president of the Kotzebue Village Corp., and asked them if any of our activities as a nonprofit regional corporation interfered with their activities and they told me, "no." And I told them what I was going to say here in the written statement I am presenting.

And the concern that they have is that they thought the Maunelak Association would be a tribal governing body, which is not the case, and they recognize the need that some sort of regionalization of the program is necessary. But according to the interpretation of the Bureau of Indian Affairs, the village IRA councils are the tribal governing bodies and anything that Maunelak Association decides to do has to be an individual resolution from each village, pretty much on a year-by-year basis. So we have minor problems here of trying to make sure that everybody doesn't go their separate ways.

Our region, which is approximately 36,000 square miles, I'm told, is approximately the size of Iowa, and has a population of less than 5,000 people, but we have 11 different villages scattered among that region. And there's the village IRA councils which are 11, the regional corporation which is in Kotzebue, and the village corporation which is in Kotzebue. And all 13 can apply for the contracts at the same time, so that there's a future possibility that none of them could ever disagree if we didn't try to meet and get this established.

The other concern that we have is that in 1991 the regional corporation NANA and Kotzebue Village Corp. will be, their stock and all their assets and everything that they have will be open to the public so that they will not necessarily be addressing Native concerns alone, but concerns that were started with moneys given to Natives and that when you look 20 years down the road Native services might not be important as the all mighty dollar in the course of the way the economics in the United States seems to be moving. So that that becomes a concern, that if they're still the tribal governing bodies that are authorized to receive tribal services from the Bureau of Indian Affairs or Indian Health Service, it might become a situation that's not harmonious to what the people at the local level needs, and I'm talking about the villages in the region that we represent.

I think it's very common to say that a lot of people are scared of "big brother" type of operations, and that's what the regional corporations can become if they're not careful in the definitions that are handed down. Our region, knowing that we had to work with certain definitions tried to make the situation work, and what I'd like to conclude is explain to you how we made it work.

We accepted a definition that the Bureau of Indian Affairs stated and established that the IRA councils are the tribal governing bodies. So we spent the past 2 or 3 months in each village revitalizing all IRA councils that were not in operation, and we made sure that the others started having active meetings and reflected their minutes and unnecessary paperwork to reflect that they are in operation. And it was easy to do because we have only 11 villages to work with. Other regions, such as the Bethel area, have 56 villages. The Tanana Chiefs has 43. So that might be very difficult for them to achieve. So that the definition of tribe, as the IRA council, can be very hard to achieve in the larger areas.

The other point that we kept in mind was NANA Regional Corp. took the approach that it will not pursue grants and contracts that are of the "service-delivery" type as identified under Public Law 93-638. Kotzebue Village Corp. also allied itself with the same idea, but the thing that they both said was that they did this on the basis that they recognized Maunelak Association is the type of organization is delivering and looking after this kind of programs.

The other thing that we have going for us right now as far as making this work is that the villages seem to be compatible with Maunelak Association's philosophy to plan, develop, and assume these kind of programs. But the point to keep in mind is that Maunelak Association is only a tribal organization and not a tribal governing body, so that one of these days we could easily disrupt any activities that we have started at this time.

Some of the recommendations that I think might have to be done, and there's no real answer, is that we'll have to find out if the definition of Indian tribe can be reworded to eliminate the multiauthority of the present tribal governing bodies that are occurring concurrently. I think the point to remember is that many of these tribes can easily become tribal organizations sanctioned by a single tribal governing body, but I don't know which organization that would be or which tribal governing body would be the single authority.

The associations have a need for a place in this act, but they must not be recognized solely on their status alone, because just like anything else we can become too big for our own good and the villages will start complaining that we're not addressing their needs. So I always try to keep that in mind when I'm acting on behalf of the association, that right now most of our activities are not dictated but a voluntary nature and the people seem to agree as to what we're doing at this time.

And in order for Public 93-638 to be more successful in the future we've got to eliminate some of these duplication of activities. And, you know, that's the function of the oversight hearings and various committees and subcommittees and the American Union Policy Review Commission is to review and hear our comments and hopefully we can come to a consensus as to what a tribal governing body will be.

Senator **Abourezk**. Thank you very much. Ted.

Senator **Gravel**. No questions.

Senator **Stevens**. Again, let me make sure I understand. Your consensus then is the same, that the tribal governing body really ought to be the villages and that they are to consent to organizations such as your carrying out the contract and responsibility?

Mr. **Tiepelman**. Well, I'm saying that it can be made to work, but it's very difficult to do. And a lot of times I think that if a regional nonprofit organization such as ours was identified, it could be more efficient and more effective but at the same time they always have to remember that they respond to the villages they represent. So that a regional corporation or a regional nonprofit association would be more ideal for my purposes, but I don't think I'm always going to be thinking to myself when I go after programs that "is this what every one village would say they'd want me to do." I'd have to constantly put myself into their shoes and won't necessarily do a good job. I'm vulnerable to my own philosophies as to how I think business should be conducted, and the villages might disagree as to how I do it. And as a consequence, the definition of a good tribal governing body might not work out.

Senator STEVENS. Thank you.

Commissioner BORBRIDGE. Just to pursue that and appreciate your thinking here, do you feel that it would be workable to have the villages, whether it's IRA or some other entity, designated as the tribal governing body and to still have one of the regional entities designated so that each would be eligible with some means of working out between the two as to which would actually be administering the program, or do you feel just one? I think you came very close to answering it.

Mr. TIEPELMAN. Well, I think, that a dual definition might be just as effective, but you have to look at one of those being regional and the other one being at the village level. You can—there's already a way in the books to go around that or to make that work, and that's under the Indian Reorganization Act of 1934, you can regionalize your IRA councils so that they're representative at the regional level. That's one of the possibilities that we're pursuing, but again you have to work, do a lot of leg work before a regional IRA council becomes the effective tribal governing body.

Commissioner BORBRIDGE. Thank you.

Senator ABOUREZK. Dennis, thank you very much for your testimony. We appreciate it.

[The prepared statement of Mr. Tiepelman follows:]

STATEMENT OF DENNIS TIEPELMAN, PRESIDENT MAUNELUK ASSOCIATION, KOTZEBUE, ALASKA

My name is Dennis J. Tiepelman, President, Mauneluk Association, a nonprofit regional corporation designed to administer programs to benefit the constituency of Eskimos residing in Northwest Alaska, otherwise known as the NANA Region. Our offices are in Kotzebue, Alaska.

I have met with John Schaeffer Jr., President of NANA Regional Corporation, and I have met with Tommy Sheldon Sr., President of Kotzebue Village Corporation in order that my comments do not conflict with their respective activities. Last week our office also completed related business activities with the officers of each of our eleven (11) village IRA Councils to ensure compatibility. I have also had conversations with Willie Hensley because of his prominence and respect our region has for all his past and present efforts to ensure Indian Self-Determination.

I am here to address comments concerning the implementation of the Indian Self-Determination Act, Public Law 93-638 (P.L. 93-638). I am here on behalf of the organizations and people of our region.

Whenever Indian legislation is enacted the definitions and administrative agencies can never seem to agree beyond the concept of "helping the American Indian", with the afterthought of saying "and Alaska Natives".

There are RESERVATION programs for Indians, but also note that it has since expanded to include URBAN Indians. Recently in one of our applications for Federal funds I am also now eligible for programs with the appropriate title and label of NON-URBAN/NON-RESERVATION Indian group.

The application process that our organization goes through is rather tedious and dubious when we deal with Indian programs from Federal agencies. Not one agency has a common procedure for applications, documentation, program delivery, financial reports, etc. As a consequence we have to become experts with the following agencies.

(1) Department of Interior, Bureau of Indian Affairs,

(2) Department of Health, Education, and Welfare: (a) Indian Health Service: (b) Office of Native American Programs; and (c) Indian Education.

(3) Department of Labor, Manpower (CETA) Administration.

(4) Department of Commerce, Economic Development Administration.

I am sure the list could get longer, but the point I wish to make is that the definition of Indian tribe and tribal authority has no application to many of the programs that Alaska Natives are seeking to apply for funds because of the different definitions of eligibility criteria.

The Navajo Tribe in the Southwest U.S. is the single tribal governing body for its people, and everything develops around the tribe and the reservation itself. Most Indian reservations throughout the country enjoy this benefit. This is not the case in Alaska.

A tribe in our region, under current laws, including P.L. 93-638, can be the following:

(1) Village IRA Council (Indian Reorganization Act of 1934, or eleven (11) villages),

(2) Regional Corporation (NANA Regional Corporation),

(3) Village Corporation (Kotzebue Village Corporation).

There are thirteen (13) tribes for less than 5,000 people, and sanctioned tribal organizations have not even been addressed! More importantly we are a smaller one of the twelve (12) political geographical boundaries recognized in Public Law 93-638.

Everything can be expected to run smoothly when harmony exists among all the defined tribes, but when personnel, governments, policies, and philosophical ideas all become intermingled, those thirteen tribes and individual differences they have can create tantamount difficulties.

In 1991 the Regional Corporation (NANA) and the Kotzebue Village Corporation become open to the public, and not necessarily will they be for native benefit. Development and economic conditions will warrant that the American currency be given a higher priority than a native who, for the present time, lives off the land and whose use of money is not all-important. This becomes conflicting when many of the federal programs are designed to benefit the American Indian and Alaska Native who have a special relationship with the Federal government through Congressional legislation that has had to sometimes be substantiated through the judicial process.

The Alaska Native Claims Settlement Act of 1971 must not be construed to mean that it reconciled past actions, and that everything was settled. True it settled the questions of land ownership; but the settlement also realize that fact that Congress recognized that Alaska, approximately 370 million acres, once belonged to all Alaska Natives. Our fight for ownership resulted in the settlement to continue to keep 40 million acres of land and a cash settlement to invest in our own economic conditions. The Indian Self-Determination and Education Assistance Act addresses something else.

The Act (1971) and recently Public Law 93-638 define eligible tribes as being identical. The inference and reference to the Alaska Native Claims Settlement Act and the Indian Self-Determination and Education Assistance Act completely separate philosophical ideas put together when Indian tribe was defined for Alaska Natives. It is at times a stifling situation.

Let me tell you how our region has made it work. It is no guarantee it will continue to be successful:

(1) We accepted the definition of BIA and said that IRA Councils are the Tribal governing bodies. We revitalized all IRA Councils into conducting business and taking actions to receive grants under Section 104. Remember we only have eleven (11) villages to deal with;

(2) NANA Regional Corporation has taken the approach that it will not pursue grants and contracts that are of a "service-delivery" nature and identified under Public Law 93-638. Kotzebue Village Corporation has allied itself with the same idea. Remember that they see this as the ideal situation because Mauneluk Association is in existence to cater to this type of service delivery system.

(3) The member villages are compatible with Mauneluk Association's philosophy to develop, plan, and evaluate new or existing programs and so far there have been no factious groups to interfere.

(4) Mauneluk Association is only a tribal organization and not a tribal governing body. This distinction has necessitated that we act conservatively and go slow. This situation imposes greater restrictions on our ability to conduct business. It is not always pleasant or easy to live with when so much communication has to be done by long-distance telephone calls, and board meetings that require extensive air travel and weeklong per dem costs. It all becomes relative to what is sought, and sometimes the Congressional Delegation, Committees, and Subcommittee members fail to see this relationship because their world of relativity does not reflect and identify local differences in Kotzebue, Alaska.

The generality that all Indians are the same becomes nebulous when Alaska Native concerns are voiced. What started out as a good law can be just as disruptive if clarifications are not made. My hope is that these hearings will correct an oversight on the definition of Indian tribe responsive to Alaska Natives.

I would recommend the following:

(1) Find out if the definition of Indian tribe can be reworded to eliminate a multi-authority of tribal governing bodies to occur concurrently. Remember that many of these tribes can easily become tribal organizations sanctioned by a single governing body.

(2) Associations have need for a place in the Act, but they must not be recognized solely on their status alone. All tribal governments and organizations in Alaska must be received and general consensus established to determined if Public Law 93–638 is applicable to their function.

Senator ABOUREZK. Larry Davis of the Nome region? Carl Jack, Alaska Federation of Natives?

Mr. JACK. Thank you, Mr. Chairman.

Senator ABOUREZK. You're welcome.

STATEMENT OF CARL JACK, DIRECTOR, HEALTH SERVICES, ALASKA FEDERATION OF NATIVES

Mr. JACK. I have been directed by the Association Regional Health Directors to make a brief statement. However, they have advised me not to submit a full prepared statement until they have reviewed the statement themselves. So that statement, full statement, written statement will be submitted within the 30-day requirement and the statement will be on behalf of the Association Regional Health Directors.

I would like to address a couple of items not directly related to the two subject matters that are being discussed, but subject matters that are inherent in the implementation of 638 in terms of contracting under title I and title II of the, of 638. One, to reiterate what we've submitted during the hearings in the District of Columbia regarding the regulations. And the primary point that we've stressed was that there were two sets of regulations that govern the act, which are somewhat inconsistent with each other, which could put the Native organization, the tribal organization, in a position having to deal with two sets of rules of conduct under which they would have to administer grants or contracts. That have become apparent here up in Alaska too by which both BIA and IHS have followed their own methods of the way they were going to implement 638. Example, under BIA insisting having to follow the regulations that are, that have been issued September 15 requiring resolutions, whereas on the other hand the Indian Health Service has chosen to defer any contracts to the Native organizations under next year. But choose to use the existing procurement authority that are in the books already as far as contracting with the Regional Health Corporations and nonprofit organizations that the health department for fiscal year 1977.

Another item I'd like to point out is the basic attitude between the two agencies as to how the, they say the contracts have to be administered. Basically, insisting on the cost reimbursement type of contract versus the other type of contract methods that are available. The basic feeling is that the type of services that have to be provided by the Regional Health Corporation or nonprofit corporations feel should be, should determine the type of contract under which the services are to be provided.

These are the two comments that I personally have in regards to the implementation of 638. We will submit the formal written statement within the 30-day period. Thank you. [Statement not received.]

Senator Abourezk. Are there any questions by any of the panel members?

Commissioner Borbridge. Just a comment, Mr. Chairman, that Carl would be very helpful, as I'm sure he intended, if you might describe in your statement the organization in terms of its relationship to other organizations within the State representing the Alaska Natives.

Mr. Jack. Yes; that will be done.

Commissioner Borbridge. Fine, thank you.

Senator Stevens. Carl, would you envision something like the health board ever taking on delegated responsibilities in contracting field?

Mr. Jack. That would, I assume, would be at the discretion of the regions that designate the members of the health board. I assume this matter would have to be concurrently decided among the regions if, in fact, that course is to be taken.

Senator Stevens. Thank you.

Senator Abourezk. Carl, thank you very much for your testimony. Is Cliff Black here? Cliff was to come late as our last witness, and I understand he couldn't get here until about 11:30. I think that 30-day rule of holding the record open is going to have to apply to him. And we've run out of witnesses. Sir?

Member of Audience. I was wondering if the village of Naknet could submit a written statement within that 30-day period?

Senator Abourezk. Would you speak a little louder, please?

Member of Audience. I was wondering if the village of Naknet would be allowed the same opportunity to submit a written statement or would that be just for those——

Senator Abourezk. Absolutely. Any village, any village can have a written statement if they'd like. Send it to me in care of the Senate Interior Committee, Washington, D.C., and indicate for which purpose you're sending it. We'll include it in the record.

Member of Audience. Thank you.

Senator Abourezk. I would like to bring these hearings to a close. The hearings will continue tomorrow in Bethel and then in Fairbanks. And once again I'd like to express my thanks to all of the witnesses who appeared and made a contribution with their testimony and with response to the questions. I'd like to thank Senators Gravel and Stevens and John Borbridge, Commissioner of the American Indian Policy Review Commission. The hearings are recessed.

[The hearing was recessed to reconvene, Saturday, September 4, 1976, at Bethel, Alaska.]

PROBLEMS OF DEFINITION OF TRIBE IN ALASKA RELATING TO PUBLIC LAW 93-638

SATURDAY, SEPTEMBER 4, 1976

U.S. SENATE,
SUBCOMMITTEE ON INDIAN AFFAIRS,
OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Bethel, Alaska.

The subcommittee met, pursuant to notice, at 9 a.m., in the radio and TV station, Bethel, Alaska, Hon. Mike Gravel presiding.

Present: Senators Gravel, Stevens, and Commissioner John Borbridge, American Indian Policy Review Commission.

Also present: Tony Strong, professional staff member.

STATEMENT OF HON. MIKE GRAVEL, A U.S. SENATOR FROM THE STATE OF ALASKA

Senator GRAVEL. The hearing will come to order. This morning we're holding a hearing for the Subcommittee on Indian Affairs of the Senate Interior Committee in conjunction with the Commission of the American Indian Policy Review. Senator Stevens and myself are both ex officio members appointed by Senator Jackson for the purposes of these hearings on the subject of the definition of an Indian tribe.

We started the hearings in Juneau under the chairmanship of the subcommittee chairman and also the American Indian Policy Review Commission Chairman, Senator James Abourezk, and he conducted these hearings with us in Juneau and in Anchorage. Senator Abourezk had to return to South Dakota in order to fulfill his commitments on what is a very important weekend in the year, the Labor Day recess.

The hearing of necessity will have to confine itself to the narrow subject, and if time permits, we would be happy, Senator Stevens and I would be happy to listen to other problems, and our first obligation is to build a record for the subject at hand, and if time permits, we would be happy to expand the hearings to hear people on other subjects. And, so we'll go through the hearing list and at the end of that list, hear anybody else who wants to speak on the subject itself, and after that's accomplished, we'll move to other subjects if we have time. We must leave the studio here by 11 o'clock to catch a charter and to get to Fairbanks and reconvene the hearing this afternoon in Fairbanks at 2:30.

The subject has been very, very well covered by witnesses in Juneau and in Anchorage, and has brought to light some of the inconsistencies existing in present law. And, I'm sure that the outcome of these hearings will be to draft new legislation to accommodate the new interest of the Native community and minimize the amount of future conflict that would take place as the Native community under the Self-Determination Act takes on greater responsibilities of service to the people in the area, services that have previously been rendered by the Federal Government. And, in line with the Self-Determination Act in the past, 2 or 3 years ago, it's a desire in policy to see that these services are fulfilled by the Native community itself.

I'd like to at this time, call upon the senior Senator from the State of Alaska, Senator Ted Stevens, for an opening comment and then after, Commissioner John Borbridge, who serves on this American Indian Policy Review Commission will make an opening statement, and then we'll go to the witnesses. And, if the witnesses will come forward as they're called, and sit in that chair and either give us their testimony or read the paper they have prepared and then we could ask them questions, if there's no questions, we'll go on to the next witness. Ted.

STATEMENT OF HON. TED STEVENS, A U.S. SENATOR FROM THE STATE OF ALASKA

Senator STEVENS. Well, I'm glad to be here with you, Mike, and be able to complete the record of our hearings throughout the State on what I consider to be a very difficult problem, and that is the relationship of the Alaska legal governing body concept to the total tribal entity concept in the South 48. I really don't have any advanced or preconceived notion as to what the outcome should be except that I think we should do our best to make certain that in the process of this self-determination, we don't find the Congress or the State or any other entity in the position of directing the people of Alaska throughout the State as to what type of governing body they must have. I understand there is a concensus here in this area, so we should have a fairly noncontroversal subject here.

I'm glad that John Borbridge could be along, and John I'm happy to have you with us.

STATEMENT OF HON. JOHN BORBRIDGE, COMMISSIONER OF THE AMERICAN INDIAN POLICY REVIEW COMMISSION

Commissioner BORBRIDGE. Thank you, Senator. I'm very pleased to participate as a member of the American Indian Policy Review Commission at the invitation of the chairman of the Senate Subcommittee on Indian Affairs, Senator James Abourezk. The American Indian Policy Review Commission was created by an act of Congress, it has the task of undertaking a comprehensive review of the relationship existing between American Indians and Alaska Natives and the Federal Government. In the process of investigating those concerns and issues that are a particular concern to the American Indians and to the Alaska Natives, we have become very much aware of problems relating to Public Law 93-638, the Indian Self-Determination and Education Assistance Act, and other related acts. Some of the problems occur because mistakes are made where there is an assumption that the situation for American Indians and Alaska Natives are the same. Certainly there are similarities just as there are differences, and this is why we are here today, to attain from the people their viewpoints and their ideas and their suggestions as to how we might improve the implementation of some of these pieces of legislation that we feel have some very constructive and very positive intentions.

I'm very pleased to be here, pleased to be here in Bethel again because of my many friends, and also pleased to be here because Bethel is the birthplace of my wife, so of course, it has a very special attraction. So, thank you, Mr. Chairman.

Senator GRAVEL. Thank you. I'd like to also thank—I think it's helpful to the community, and not only here in Bethel, but to the entire Kuskokwim River region and the delta regions of the Yukon, and that is for broadcasting this hearing. KYUK is performing, in my mind, a very fine service. Of course, we're having the hearing here in the TV studio which was very much of a surprise to Senator Abourezk and Senator Jackson, in fact they were joshing me about it in the Senate cloak room that we would have such forethought as to have a hearing right in the studio.

Our first witness of this morning—Let me just say also, the record will be open for 30 days, so if anybody from any organization or individual who might want to to file additional opinions on the subject is free to do that. They can send this to Senator James Abourezk or Senator Mike Gravel, Senator Ted Stevens or John Borbridge in Juneau, but the others just send to Washington, D.C., in care of ourselves and we'll see that it gets into the record that we're trying to build in this regard. And, those within the sound of my voice, if they similarly have—counsel members or village members, if they feel that they want to make contribution to this record or have an opinion, their views would certainly be most welcome.

Our first witness this morning is Mr. Edward Hoffman, Sr., the association village counsel president. I don't think I see him in the audience. Those who are not here at the beginning, we'll go back and maybe they will be showing up later. Out second one is Harold Napolian. Is Harold here? OK. You get the opportunity to break the ice for everybody.

STATEMENT OF HAROLD NAPOLIAN, CONTRACTING OFFICER, YUPIKTUK BISTA, INC., ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS

My name is Harold Napolian and I'm from Hooper Bay, Alaska. Right now I'm working for Yupiktuk Bista, Inc., a Native organization formed by the AVCP as our contracting officer.

OK. Our basic problems with Public Law 93-638 insofar as the definition of tribal governing body is concerned, is that prior to this time, prior to the passage of Public Law 93-638, was that we never had this problem before. We have never at anytime had to sit down at an AVCP convention to try to determine who was the tribal governing body, because it was our understanding up to that time that the tribe in his region was the Upik Eskimo. We have 57 communities in this region and are all represented by the AVCP. So, the problem has never been addressed before because we didn't think that there was one.

I think there's a lot of confusion at this time, which I think, is created mainly by the rules and regulations and by the act itself. When the acts define a tribal government in Alaska, it creates more problems than solves them. I think in the act it says that a regional corporation can be a tribe. A village corporation can be a tribe, and that, I think is very restrictive. It also says without saying so, that second class cities are not tribal governing bodies. That definition we agree with.

I would like to spend a little bit of time on what tribal governing body means, at least to us at Yupiktuk Bista because we are presently working on drafting a BIA contract proposal, and we have had direct dealings and problems with that one issue. OK. The villages at this time are organized mostly into second class cities and we maintain that a second class city by law, cannot be discriminatory. It cannot be recognized as a Native entity because it was formed under State law. And, for a village council of a second class city to be a tribal governing body is inconsistent with both the act and also State law. So, we maintain that a second class city is not the tribal governing body, it is an institution representing both Native and non-Native in that community. A problem: In many of our communities we only have second class cities organized. A great majority of our villages are organized as second class cities. There are no IRA counsel and there are no other forms of government created except maybe for traditional counsels which are still the old chief system where the village meets annually and elect their chief, we have that.

OK. We would like to think that the second class cities, even if they are a governing body, they are a governing body for—just for those activities that the city is designed to take care of, taking care of municipal laws and not representing the Native people in that village. We maintain that the AVCP represents the Upik tribe. The Upik people have the same language, they have the same history, they have the same heritage, and the same culture, we also have the same problems, so we maintain that the Upik people are one tribe irregardless of which village they are in. They are the same people. You can't differentiate us, in fact, it was prior to the 1930's that real villages began to form, prior to that time we lived in the camps, winter and summer camps. We didn't used to be large communities like in Hooper Bay, but from the 1930's on, the people in those areas gathered into the villages mainly to be near the school and also to be near the church. So, the Upik people to us is one tribe. We would like to see it that way, irregardless of the second class cities formed, because we have those same problems, we have the same culture, we're one. And, a village cannot effectively deal with problems faced by all communities in the region. What happens in one village will affect every single village in this region. What happens to one Eskimo will affect what happens to every Eskimo in the region. So, it becomes important that the Eskimo people in this region, the Upik Eskimo are one. We are one tribe and we maintain that we have one tribal governing body, the Association of Village Counsel Presidents.

For purposes of implementing 93-638, that is the logical body to deal with, and it is also the easiest and the most effective body to deal with. I would like you to picture the BIA trying to implement 93-638 with 57 communities. We would like to take advantage of 93-638, just a sure number of our communities makes it almost impossible for all villages to enjoy 93–638, for it will take the BIA years to implement it for our 57 communities. So, we would like to have the Association of Village Counsel Presidents as representing all the Upik people in the region, be recognized as a tribal governing body.

The second-class cities are autonomous, they can do what they want, they can make decisions, we will not interfere with their activities, but with those issues affecting the Upik Eskimo, those issues must be addressed by the AVCP, to all of its members, the Upik people. The AVCP was recognized during the land claims issue by the Federal Government as representing these people, but now with the passage of 93–638, it's not recognized. So, I think 93–638, while being a good law, also is too much of a chore. It underlines an existing Native organization, which is recognized by the villages and that weakens, not strengthens the Upik people. So, in a way, 93–638 and its rules and regulations with regards to what an Indian, or in Alaska's case, an Eskimo or Indian tribe is, it underlines, but it doesn't strengthen.

That's my testimony.

Senator GRAVEL. Thank you. Do you see any conflict or is any effort to develop the delivery of services by the local community, be the village, or in this case, let's say, the second class village, is there a desire within that village community that the services be rendered there rather than defer it automatically? Is there no area of conflict there between, let's say the village and the AVCP?

Mr. NAPOLIAN. OK. There is—at this time, there is no conflict. The AVCP does not have absolute power or decisionmaking powers for every community. We wanted to shape that. There are community issues that will have to be dealt with by that community, and we will not interfere with the workings of that community.

We also recognize subregional groups like the Kuskokwim Native Association which is upriver. They are comprised of 11 communities. We recognize their autonomy. We want to work together so we will—there's no problem there.

We also have the united villages of Nelson Island. Five villages who are also organized. And at present we have BIA contracts. There's no problem there. They still belong to the AVCP.

Senator GRAVEL. Was this an initiative taken by the BIA or was it taken by the AVCP in having logical units to deal with?

Mr. NAPOLIAN. That was a decision made by AVCPN-Chalista because we had to break the region down to manageable groups. Because 57 communities is a large—especially when you look at the geographical area. It's kind of a hard place—it's just too large to try to manage. So we have subregional groups and we encourage subregional groups.

And what we're trying to do right now is to get a prime contract with the BIA and then we will immediately subcontract these subregional groups.

Senator GRAVEL. So you just provide technical assistance at that level to the regional groups?

Mr. NAPOLIAN. Yes, sir, we do.

Senator GRAVEL. In the implementation of—have you had a good success in getting technical assistance on the contracts and turning up people from the BIA?

Mr. NAPOLIAN. Well, we haven't had very much until recently, like all the contracting effort that we've made has been on our own. We were required to get resolutions from each village and we had to do that on our own. And everything that we've done to date up until recently has been on our own, has been without the help of the Bureau.

Senator GRAVEL. Were you required to put together a contract in the AVCP to get agreements from the local second class city or is the agreement that you get sufficient for BIA approval?

Mr. NAPOLIAN. OK. The AVCP itself requires us to go to every community and explain to them what our contract is and the resolution from that community approving our contract proposal. And we have to go back then to the AVCP to get their final approval after we have a negotiated contract, so AVCP now requires us to explain to each community what it is we plan to do.

Senator GRAVEL. Have you found this excessively bureaucratic or do you think it's a good way to do it?

Mr. NAPOLIAN. I think it's a good way to do it, because the AVCP required us to do it. It just happened that the BIA also required us to do it, so in that case both groups had the same idea.

Senator GRAVEL. Very good. Senator Stevens.

Senator STEVENS. The interesting thing that you stated and I want to make sure that I understand it, each one of these communities does not have an IRA counsel, am I right, or very few of them really?

Mr. NAPOLIAN. No, sir, very few. I think there's about six if I'm correct.

Senator STEVENS. But the AVCP is really an association of village council presidents?

Mr. NAPOLIAN. Yes.

Senator STEVENS. Now where there is not an IRA council, is it in fact that practice for the head of the community to be the village council president? Where do you get the village council president from in a village where there is no council?

Mr. NAPOLIAN. OK. Up until this time it's been either the second class city council president or the traditional council president. If there's no other body or no other person we can feel that's selected by that community to represent them.

Senator STEVENS. Some of them have councils then even though they're not IRA villages, they have actual village councils on an ad hoc basis of their own choice; right?

Mr. NAPOLIAN. Yes, sir, that's what we call a traditional council.

Senator GRAVEL. Do you have any instance where you have competing village political interests that might cause difficulty for AVCP to have a representative, or to make a choice of who the representative will be? Has there ever been an example of that?

Mr. NAPOLIAN. Not to my knowledge. The only problem that we had once was when one of the villages sent a non-Native to the AVCP meeting at which time the AVCP moved not to seat him at the convention because he was a non-Native and therefore did not represent Native people in his village.

Senator GRAVEL. But was he duly elected by that community?

Mr. NAPOLIAN. He was duly elected by that community, but for purposes of AVCP he was not recognized.

Senator GRAVEL. What was the thinking of the people in making that negative decision?

Mr. Napolian. Well, the AVCP is a Native organization, it's a Native group. And in order to be a member of AVCP and even to represent the Eskimos from a village you have to be a Native, you can't be a white person.

Senator Gravel. Excuse me, Ted, I just wanted to follow up.

Senator Stevens. No, I think that's the apparent problem is whether the tribal concept was followed out, and in that one instance it demonstrates that it really was a tribal concept and not an association of the duly elected of the particular entity that the individual village had sought for its internal government. I think that really would show that the AVCP is the tribal entity here.

Mr. Napolian. Yes.

Senator Gravel. I think it's interesting. It brings to mind the problem that if you're having—using the vehicle of a second class city which is under the laws of the State, there's no religious—there's no racial parameters or confines to that concept, and that that does sort of fly in the face of the culturalization perameters that exist for the AVCP. It's not a very big conflict because you don't have a lot of gussics (people who tend to cause problems for no apparent reason).

Mr. Napolian. That's correct.

Senator Gravel [continuing]. Out in the village right now, but if the character of the area were to change in the future that it would be an interesting problem.

Senator Stevens. Well, but I can see a good reason why a village can have a second class city and an IRA organization in order to take advantage of the grants, loans or programs that are available to either one. And that it certainly demonstrates the solidarity of this area.

I assume that Eddie's going to tell us the outcome of the meeting that we've had, or which was reported to us?

Senator Gravel. He hasn't appeared as yet. I'm sure he will be here before we complete our testimony.

Senator Stevens. Is there any disagreement that you know of the position that you've stated, I think it is a right one, with regard to Upik people and solidarity in terms of the definition of tribal entities?

Mr. Napolian. Is there a disagreement among the——

Senator Stevens. Do you know anyone that's disagreed with your position you've stated here?

Mr. Napolian. Yes; I think that the—among the native community there have been no disagreements. I think that the disagreements that might occur are ones where people might feel that the AVCP is saying that second-class cities have no powers, you know, but that's—this whole issue has not ever been clearly defined to a point where a village can really understand. Now the only people to date that have said that AVCP is not a tribal governing body is the BIA and from there they required us to deal with 57 communities.

Senator Stevens. Is it possible for any one community to dominate the AVCP? Can you have a dominate village?

Mr. Napolian. No, you can't, because only one person can represent a community. Bethel is represented by Mr. Hoffman, and our smallest community is also represented by one person. Every village has one seat in the AVCP.

Senator Stevens. And one vote?

Mr. **Napolian.** And one vote irregardless of the size of that community.

Senator **Stevens.** That's all I have. Thank you.

Commissioner **Borbridge.** Then as you've indicated before the position here in this area is that the AVCP should be the one recognized as the tribal governing body for the purposes of the Indian Self-Determination Act?

Mr. **Napolian.** Yes, and—but the village should also be recognized. But in issues dealing with all native people, the AVCP should be recognized, the group to deal with.

Insofar as community problems by necessity the village will have to deal directly with the Bureau insofar as small loans and those kinds of things are concerned. But on issues dealing with the Yupik Eskimo the AVCP by necessity is the tribal governing body on those matters, as it did with the land claims.

Commissioner **Borbridge.** All right, so then you would favor the position whereby AVCP would be a tribal governing body as well as the individual villages, and then it would just be a matter of determining as to which would be the entity that would actually be contracting. In some instances a region might contract, in other instances the villages themselves would contract directly?

Mr. **Napolian.** Yes.

Commissioner **Borbridge.** How would a typical negotiation for a contract take place where it might be the villages or the regions that are involved? Would, for example, the contracting officers such as yourself negotiate on behalf of the villages through AVCP and then perhaps subcontract or how does the Bureau approach that? Do they deal with you directly or do they insist upon dealing with individual villages even though AVCP may be the one that will handle the contract?

Mr. **Napolian.** Well, presently the way that the Bureau deals with that is they require us, if we want to contract, to go to every community and have them give us a resolution telling the BIA that we can for that community seek a contract with the Bureau. As far as the village wanting to contract with the Bureau, the village does not have to go through us. They can deal directly with the BIA. Like I said, the United Villages of Nelson Island already have a contract with the BIA. They do not have to come through us. We don't see a conflict there.

Commissioner **Borbridge.** What about the cost of obtaining this concurrence? And I assume there must be some cost. How is that handled? In other words it just seems to me that if there's an *x* amount of dollars available for a contract and you're then required to obtain this concurrence, do you have to pay for this out of AVCP funds or does the Bureau provide some of that? How does that work?

Mr. **Napolian.** Up to now we've had to carry that burden. The financial burden has been on our shoulders. We haven't received no assistance from the Bureau. Hopefully that might change soon because it isn't—we don't have all that much money or money that we can use for those kinds of purposes.

Commissioner **Borbridge.** For the record then, you're advocating that change as one means of improving the situation?

Mr. **Napolian.** Yes, sir.

Senator **Stevens**. Could we hold right there? If the AVCP were involved, it would be involved in contracting not just one service, but for several: social services, education, health. Would it be possible to get the concurrences for the total contracting at one time?

Mr. **Napolian**. Not unless the AVCP were to be recognized as a tribal governing body.

Senator **Stevens**. If it was in this area would it be possible for you to envision going to each village and setting forth the program and getting concurrences to be the contracting entity for the whole area all at once so that—what I have in mind, it's obvious there's a financial burden here.

Mr. **Napolian**. Yes.

Senator **Stevens**. But that burden if you have in one instance a group of villages and in another instance individual villages seeking contracts, another the AVCP seeking say the education contract, it would seem that the redundant administrative costs are really going to reduce the effectiveness of the money that's available to the area. Is it possible that there could be an annual contracting resolution from each village?

Mr. **Napolian**. Yes; it is possible, Senator.

Senator **Stevens**. I know it would be possible theoretically.

Mr. **Napolian**. Yes.

Senator **Stevens**. But do you think it would be possible that the villages would react to this in a positive way?

Mr. **Napolian**. It depends again on what the program is and also what we're going to do with it. We would have to explain to them, like we're required to do right now by the AVCP, what we will do with the program and how we'd run it, and then we'd leave it up to the village at large. The Native people would then vote at large to accept or reject for that community our contract proposal. If they reject it then we would have to revise it, you know.

Commissioner **Borbridge**. What about the matter of time now? Do you find that you have enough time when a contracting opportunity comes up and then the Bureau then requires concurrence and very often there is a deadline. You have to submit an application. Is the matter of notification by the Bureau and the time to gain concurrence always sufficient?

Mr. **Napolian**. No; I would say that—at least there's been one instance and that's the 104 planning grants where just practically no time for adequate planning to be done. In fact we have—I guess all of Alaska has that problem right now, but the deadline for submission of the proposals is September 10, and in this area we have 3 weeks to do something about it and we couldn't do anything about it because we had no moneys for travel, and there's really no way of communicating with each village adequately to explain to them what it is. So what's happening is that there was a meeting yesterday where we discussed 104, the 104 planning grants with the superintendent and his traveling operations officer. And the villages at that point had to more or less make a decision of whether or not they approved the regional concept of submitting a contract or a planning proposal or if they want to go back to their villages and try to within 7 days make a proposal and submit it before the deadline of September 10. So the time allotted to us is never adequate in most cases.

I think the Bureau knew about the 104 grants as far back as June, but we did something—finally did something about it 3 weeks ago.

Commissioner **Borbridge**. My last question would be, in general the whole idea of contracting for various programs is that the people themselves involve in the administration of the various purposes, because they know their people, they know the situation. The feeling is that they will be more sensitive to needs and frankly do a better job. Do you feel that this is happening largely? What do the people feel about having AVCP contract directly for example instead of just having the Bureau or someone else do it? Is there a good, positive reaction to this?

Mr. **Napolian**. OK. We're working on that, getting that positive reaction. Right now there is—I can't say that there is a general consensus that it's good for us to contract any BIA services. In fact it's been years since we've been trying to get that consensus. In an area this size it takes us that long. And right now we're just talking about contracting these services, and we do have a consensus there. We have resolutions from every community approving our negotiating to take those three services.

The schools for instance—well, AVCP requires us to, themselves, to unite the planning—we have to—they want you to plan for something, and have the village approve it. Well, we're trying to get that consensus, you know. I think we're beginning to get it across, but it's going to be far more—well, more training on our parts with our community.

Commissioner **Borbridge**. I might just in conclusion, Mr. Chairman, comment that I feel very strongly that contracting has to be examined and evaluated over a period of more than 1 or 2 years, simply because the agencies involved have a great deal of time to develop their own method of delivery of services, contacts, credibility, and that organizations such as yours need the opportunity primarily because I feel it's a learning process not only for AVCP but really it's a learning process for the agencies with whom you contract. Thank you.

Senator **Gravel**. Thank you. Harold, do you have any written testimony you want to submit later and add to your oral testimony this morning?

Mr. **Napolian**. Yes, I do, but I will have to send it in.

Senator **Gravel**. Please. We'll be happy to have it and I really want to compliment you on a very fine treatment of the subject.

Our next witness is Mr. Glen Fredriks of the Kuskokwim Native Association. Mr. Fredriks.

STATEMENT OF GLEN FREDRIKS, PRESIDENT, KUSKOKWIM NATIVE ASSOCIATION

Mr. **Fredriks**. Thank you. My name is Glen Fredriks and I represent 11 villages in the upper area of the Kuskokwim, from Lime Village up and down and to Kalskag. And we have a Kuskokwim Native Association that I also represent as president of that corporation.

We have had a good relationship with the Bureau on contracting. I think Self-Determination Act as it is now goes hand in hand with the Native land claims that is passed by Congress, and I think those two go in hand to self-determine for the Indian people.

Like I said, we've had a good relationship with the Bureau on contracting. We now contract on behalf of 11 villages and hopefully we would continue that contract relationship for 11 villages. The association gets the money from the Bureau and in turns passes it on to the villages. We administer the program, help the people of administration, auditing, so forth. This has worked beautifully.

I have nothing against AVCP as a body, recognized body. The only thing I would like to see and hopefully more of the villages will go into groups and contract directly from the Bureau, because it saves, like you said a while ago, people are more involved in their level. I would like to see that more continued, more from the Bureau.

I don't see right now as individual villages contracting from the Bureau because of the fact that they aren't ready to contract because administratively and paperwork is so much involved. In the future, yes, I can see this. But we are staffed, our association is staffed with qualified people to handle this, and we pass it on to the villages.

The only other objection I have with the contracting with the Bureau is that it takes time on cost-reimbursable contracts. We have an instance right now that people have to be paid, their charter services have to be paid. It takes time and paperwork for—to come to Bethel and then to Juneau, and then finally we get reimbursed. It takes months. And the people are hollaring at you to get paid. This is the only objection I have. There should be some way of working this thing out where it doesn't take that long. Maybe our association—our association now functions with Calista Corp. We get reimbursed automatically every month for the amount of money that we ask for in our budget. I notice that the Federal Government with its revenue sharing is doing the same thing. Directly to your bank account to be put in this amount of money. I think these should be taken into consideration from you, because the lost time of getting reimbursed from the Bureau.

I think each association should be accountable for their management system, for their auditing and integrity before the Bureau is given—gives the contract to that association. It's just like running a corporation. You have to know where the money goes, who it goes to. Those are really very important to me and I would—like you said, it's a learning process for everybody.

Senator GRAVEL. Think you very much. What—if you're KNA when you have a contract, do you have to—does that contract go through the AVCP or you deal directly with the BIA?

Mr. FREDRIKS. We deal directly with BIA.

Senator GRAVEL. So you don't—does BIA require you to have resolutions from the various villages within your organization?

Mr. FREDRIKS. Yes, we do. We do that automatically anyway.

Senator GRAVEL. What are some of the services you provide? What are some of the services you provide under existing contract right now?

Mr. FREDRIKS. We have a huge agriculture project in Aniak. In fact I brought some huge cabbages here, and we have an agriculture program, JOM funds, and two or three different contracts. Hopefully we could go into more contracts. And some of the self-determination act, we just had a meeting with the people in Aniak to fill out the application that's required.

Senator **Gravel.** Thank you. I have no further questions, Ted.

Senator **Stevens.** Where is your association headquartered?

Mr. **Fredriks.** Aniak. It's about 100 air miles from Bethel.

Senator **Stevens.** And do you have meetings unrelated to grant applications?

Mr. **Fredriks.** That's true.

Senator **Stevens.** What kind of activities would you be involved in beyond grant activities? Contracts?

Mr. **Fredriks.** We have also with the nonprofit we have Kuskokwim Management Corporation which takes care of under Calista Corporation 11 villages.

Senator **Stevens.** That's a profitmaking association?

Mr. **Fredriks.** Yes, we advise them. We have 1 attorney, 1 accountant for all 11 villages. Hopefully, we're in the process of merging the 11 villages into 1 corporation, and then this October the shareholders themselves will vote on the merger.

Senator **Stevens.** That's the profitmaking side?

Mr. **Fredriks.** Right.

Senator **Stevens.** What about the nongrant activities of the association in services? Social or welfare or any kind of governmental services?

Mr. **Fredriks.** This is what hopefully we can get into more, like we'd like to contract social services from the Bureau and part of the land department from the Bureau, so that we could put it in Aniak or some location where it's closer to the villages.

Senator **Stevens.** But you don't do any of that now?

Mr. **Fredriks.** No, no.

Senator **Stevens.** Do you perform any governmental services for those villages? I mean, do you in terms of the reports that they'd have to make under revenue sharing or any of the other things, do you do any of that?

Mr. **Fredriks.** Yes, sir, we do. If a village is having a problem we have a staff up in Aniak that will go out and fill out the applications for revenue sharing. We also help them in second-class cities, in trying to implement that part of the act. We go out and contact Juneau, Community and Regional Affairs, if the village wants us to, and so forth.

Senator **Stevens.** And how do you get membership in your association? How does each village get membership? Do they elect a president or elect somebody to come to the association?

Mr. **Fredriks.** Yes, sir, each village sends a representative elected by the village and also that person is voted—votes in the board and has one vote. We have 11 members. One of them each.

Senator **Stevens.** And the person who represents the village in your association, is that the same person who represents the village in the AVCP?

Mr. **Fredriks.** That's yes or no. In some cases the board of directors, or the chairman of the board, profitmaking corporation in that village is usually the one who hopefully comes to this meeting.

Senator **Stevens.** But you don't send a representative from your association to AVCP with 11 votes, do you?

Mr. **Fredriks.** No; everybody comes to AVCP then. All 11.

Senator **Stevens.** They each have their individual votes——

Mr. **Fredriks.** Right.

Senator **Stevens** [continuing]. When they come in?

Mr. **Fredriks.** Right.

Senator **Stevens.** Have you ever had a subcontract from AVCP?

Mr. **Fredriks.** We had one last year or the year before on education, training of the administrators that we had.

Senator **Stevens.** How did that work?

Mr. **Fredriks.** It worked pretty good.

Senator **Stevens.** Did you have to have a resolution from your villages involved before you got approval of the subcontract?

Mr. **Fredriks.** Right. We do that just so that we don't get—you know, we want to tell the people that we are doing this for them.

Senator **Stevens.** I know, but was it required by AVCP that you get those resolutions?

Mr. **Fredriks.** No; it wasn't.

Senator **Stevens.** But you did it anyway?

Mr. **Fredriks.** We did it anyway just to inform the people that we're doing this on behalf of them.

Senator **Stevens.** But that's more of a communications, you told them what you proposed to do and got their concurrence——

Mr. **Fredriks.** That's true.

Senator **Stevens** [continuing]. Before you got the contract?

Mr. **Fredriks.** Right.

Senator **Stevens.** Thank you very much.

Commissioner **Borbridge.** You had mentioned the problems concerned with the tops reimbursable approach where the delay in payment to you was rather costly sometimes. How do you start off with your front-end funding? Where do you obtain the funds?

Mr. **Fredriks.** Usually what we did with the agriculture program, was we sent in our budget, which was a $45,000 budget, and then they gave us up-front money of $10,000. But then after we spend that $10,000 then we have to cost-reimbursable, which puts us back.

Commissioner **Borbridge.** I see. Do you find that in general the provision for overhead or administrative expenses is sufficient? What I'm thinking about here is I'm not certain that with the travel you have and the distances that you have to cover that that amount is sufficient. Is it generally sufficient?

Mr. **Fredriks.** It is generally sufficient, yes.

Commissioner **Borbridge.** Do you have meetings with your subregional, let's say, and AVCP in which as you look at a contract opportunity kind of negotiate or discuss who should enter an application for it or——

Mr. **Fredriks.** No; we haven't. I think Harold and I and the other areas that are together in groups have an understanding that these villages should contract directly.

Commissioner **Borbridge.** So there really isn't any problem at all? You have the villages, you have the associations such as yours, and AVCP and the relationship and the communications that go back and forth are such that there pretty much is agreement once the contract is entered into and even before that time, there just isn't any competition that I'm able to see here?

Mr. **Fredriks.** No; I don't think—no.

Senator **Gravel.** Thank you very much, Glen, for the very fine testimony.

Our next witness is Thad Tikian. Thad? Is he here? He's not here.

Paul Kiyunga? He's not here either. Our time is getting better. It was critical for a while, but's it's getting better.

Peter Three Stars? Please proceed as is most comfortable, sir.

STATEMENT OF PETER P. THREE STARS, SUPERINTENDENT, BETHEL AGENCY, BUREAU OF INDIAN AFFAIRS, BETHEL, ALASKA

Mr. **Three Stars.** Mr. Chairman, Senator Stevens, and Mr. Borbridge, and other distinguished visitors. My name is Peter P. Three Stars, superintendent, Bethel Agency, Bureau of Indian Affairs. I'm a Sioux Indian from Pine Ridge, S. Dak., and I have very good insight into tribal organizations. It doesn't do any good up here, but——

Senator **Gravel.** You missed your Senator.

Mr. **Three Stars.** He should have been here.

My testimony hopefully will provide some background information and also delineate the major obstacles, at least as I have seen them, with the implementation in Alaska of the Indian Self-Determination and Educational Assistance Act, Public Law No. 93-638.

Rather than go through my complete written testimony, I would like to just read excerpts from it.

Senator **Gravel.** Please. And we'll take your testimony and it will be printed in the record in toto.

Mr. **Three Stars.** Thank you, Mr. Chairman.

In the Bethel area, as was said, which is about the size of the State of Arizona, there are 57 villages and communities with a Native population of about 15,000. Each village has its own governing body and in comparison to the lower 48 concept would constitute a separate tribe. The Association of Village Council Presidents is comprised of the elected officials from each of the 57 villages, and I contend it is a tribal organization as based under the law. It's not a tribal governing body.

Getting into the other parts, in addition to the fractionalized Native community scattered over this land area, there are only six that have been organized under the IRA. And since these organizations are primarily for the purpose of qualifying for credit functions, they're not always active in terms of tribal governmental functions, everyday governmental tribal functions. Most of them around here as Harold said are second class and the rest are traditional governments.

In the last decade or so the State or Alaska and the Bureau of Indian Affairs helped many villages to organize and incorporate under the State statutes, hopefully with the idea of providing these communities moneys and programs. And since then all of the fourth class designations have been raised to second class.

Now, second class city governments are presently prevalent in the Bethel area. And except in very unusual cases all second class city councils outside of Bethel are all Native in composition. They are active in governmental functions on behalf of the Native villages. And in all fairness it must be point out that the claim claims funds do not filter down to these village councils, and these councils therefore have to seek funds from private foundations, local efforts, and Federal and State programs like we have before them today.

I would like to just skip down to the application of the act itself. It would seem very simple in this area to say that all village councils are eligible for Bureau services and programs, but it's not. IRA councils and traditional councils or Native organizations are eligible for BIA services, but second class city councils, being organized under State statutes, not one directly applicable to U.S. Government trust and with seats open to non-Natives in the council, are not therefore eligible for BIA services, which is one of the requirements for being recognized.

And regional corporations, such as Calista, are profit oriented. They're not eligible for BIA services.

Village corporations are profit oriented and are not eligible for BIA services.

And so that leaves only the village.

I have here a list of potential contractors under three, and these organizations are outside of governing tribal council concept as we see them in the lower 48.

The AVCP, a regionwide tribal organization comprised of 57 village council presidents in the Bethel region is a regionwide tribal organization. And that's what Harold was addressing a little while ago. They're the ones that brought the land claims into focus and followed through on it.

Yupiktak Bista, Inc., of which Harold is a member, was incorporated by the AVCP to contract with the State, BIA and other organizations to provide social service programs to these 57 villages. They have in the past attempted to be prime contractors for BIA programs and services.

The Kuskikwim Native Association, represented by Mr. Fredriks this morning, is a subregional group of 11 villages in the Upper Kuskikwim. He said we have presently directly with them contracts from land operations, JOM and as a private contractor under the title of "Under the Mountain Builders." Glen also contracts and finishes some of our housing projects under contract. And so we have them under the act to some extent more in some areas.

There's a Yugtak Corp. of 13 villages, and that's what Thad Tikian was going to address. It's a subregional organization set up to coordinate the wishes of the member villages in terms of grants and contracts.

The Nelson Island group of seven villages including Nunivak Island already has social services contracts.

And in closing I would just like to go to what we did about 3 weeks ago was to come up with some working definitions for fiscal year 1976. Rather than deny the opportunity to the villages because of second class cities and so forth, we decided that we would recognize the village as a tribe and not the council that presently provides the functions and we got over the hangup that way. Therefore, second class city councils comprised wholly of Natives can be recognized for purposes of submitting grant applications for fiscal year 1976. However, immediate steps must be taken to reactivate IRA councils or formalizing traditional government to apply for the 1977 grants. So that we would stay within the total spirit of the law rather than just trying to get expedient services to them the best way possible.

Mr. Chairman, I have attached a map of the Alaska over the United States if you'll just turn over your books, it's in the back there. It's a fairly large area within which the tribe is from, and I'm glad I'm not a tribal operations employee because I would have to cover Nebraska, Kansas, Colorado and Oklahoma in order to get these people. And that will give you a better idea of what Harold was talking about, the logistics of implementing on a region-wide basis any program in this area is quite a chore to begin with.

I have also got a listing of Bethel agency programs, that were in the budget for last year.

I want the record to show that out of 410 potential employee positions in the Bethel agency, presently there are 258 Natives in these positions. Out of the 258 there are 7 Indians and 251 Eskimos.

Mr. John Paul Jones, the tribal operations officer, and my boss, we'll be most happy to address any other questions that you may have.

Senator **Gravel**. You told us you have a second class city as a contractor, and you made reference earlier, that non-Native areas are not qualified as contractors. What happens if you've got a second class city and they were to have a non-Native mayor? Would that preclude them from, or is there any restriction——

Mr. **Three Stars**. Well, the understanding, Mr. Chairman, here was with AVCP was that they would work first with IRA if they had one, traditional governments, second class cities if they're all Native, and if there was a non-Native in the second class they'd go to the village corporation. Just for expediency for fiscal year 1977—I mean 1976. For 1977 hopefully we'll have enough time so that some of these organizations will be revitalized in order to function as tribal governmental bodies for the villages outside of the second class nomenclature. It may be the same people however, they'll be the traditional council rather than second class cities with a constitution and by-laws setting forth tenure and so forth.

Senator **Gravel**. Well, but do they have a traditional council or is this something that a bureaucracy is going to develop?

Mr. **Three Stars**. Mr. Chairman, if we were to go back to the land claims issue, it was the 57 traditional councils which implemented it and initiated the whole thing and got the settlement. It is now at this stage of the game as Harold Napolian said where we're fighting over who is the tribal governing body, and we've never done that before.

Senator **Gravel**. I realize that. When you say a second class city produces qualifications as Native, what's the definition of that? What causes that to happen? How many non-Natives does that mean that would disqualify that type of vehicle, the second class city?

Mr. **Three Stars**. Mr. Chairman, I think what we said was that for purposes of grants for 1976 we would take applications from the second class city on behalf of the Native population of that village. We didn't say we would recognize that perpetually as the village——

Senator **Gravel**. I realize that. I'm trying to determine what qualification you're thinking of using or have used in making that distinction between a qualifying second class city and a second class city that may have some non-Native participation. What—at what level do you have a break off? Is it one person? Ten persons? Is it——

Mr. THREE STARS. No; I would rather leave that to the AVCP because what we do in the Bureau of Indian Affairs is work with the villages that belong to the AVCP and we get the leadership list from them.

Senator GRAVEL. But I think we had testimony—thought that you're the ones that set the criteria which they have to follow?

Mr. THREE STARS. Well we don't set the criteria. We're trying to follow the nebulous language of the act right now. And in doing so it has become rather confusing out there.

Senator GRAVEL. OK. That's why we're having the hearings, because of the confusion. I'm just trying to get a grip as to what the break-off point was in that regard.

Mr. THREE STARS. I did not address myself to that and don't intend to, because any of that is tribal self-determination and I only work with leaders and their councils. I know that there are some——

Senator GRAVEL. Well, aren't there some instances though where you had a situation where a community sends a non-Native to the AVCP and he was not recognized?

Mr. THREE STARS. Well, I was not involved in that, I don't intend to get involved in that. I know that there are instances where in traditional councils where the most articulate spokesman whether he be a Native or otherwise becomes a tribal council leader. And they mean well by that, but they also defeat the purpose of sending a representative of their own people down to AVCP. And that as a matter of fact I guess the training program that needs to be done in the matter of product information and public education. And that is the purpose of obtaining expertise in the village which might be the teacher or VISTA worker or someone.

Senator GRAVEL. I have no further questions. Thank you. Senator Stevens.

Senator STEVENS. Well, Peter, you've got, as I understand it, 31 of the 57 villages are represented by subregional groups. Three subregional groups that you're working with, right?

Mr. THREE STARS. Right.

Senator STEVENS. How do you handle the non—the villages that don't belong to a subregional group? They go directly out of AVCP as far as any service is concerned?

Mr. THREE STARS. Well, to me there seems to be a common consensus in the last few weeks that they have in a gentleman's manner delineated these areas and it seems like the four areas that are focusing are the Yupiktuk Bista, the Kuskokwim Native Association, and the Nelson Island group and the Yugtak Corporation. Those are subregional groups that are working together under the village corporation funding problems already, and they figure that the expertise they have in that could be applied to village government as well, in personnel, training, and funding and so forth.

Senator STEVENS. I assume there's a cost involved in terms of activating an IRA status. There must be group forums, and meetings and applications. How substantial is that?

Mr. THREE STARS. Well, in the State of Alaska there were only about 69 or 70 since 1936 and they've lost interest in that thing, and it may take several months to organize an IRA because of the redtape involved.

Senator STEVENS. What would be wrong with having a second class city recognized as an IRA council as long as the participation as far as your programs are concerned came from the Native Eskimo section?

Mr. THREE STARS. Well, first of all, in order to be an IRA council one has to be a full Native community. All members have to be Native members of the community and it's restricted only to the Natives. And it's a separate governmental document that restricts everyone except Natives from joining that thing so it couldn't be compatible to a second class competition of an open seat.

Senator STEVENS. I'm afraid I didn't communicate my point. It seems to me that we're now going to the point where some areas which have already taken a second class city form of government are now going to be told even though they may be 99.9 percent Eskimo, and now they're going to be told they have to form an IRA council in order to make application for grant. Is that right?

Mr. THREE STARS. All we're saying is that where there is an existing IRA to use that. Where there is not, they use the traditional form of government which many are in his area. They have no written documents approved by anyone that by tradition from time immemorial they have been electing their officials that way, and we recognize that group in the BIA any time.

Senator STEVENS. Well, what would be wrong with recognizing the form of government they've selected, the second-class city so long as the grant was limited to be used for the beneficiaries, the Eskimo people of that area?

Mr. THREE STARS. Well, Mr. Chairman, I would say that if there was limiting language to that effect and the only means of getting funding for the Native people in the community, I see nothing wrong with that. But they have to have an instrument for receiving grants and services.

Senator STEVENS. I'm worried that because of the interpretation of Federal or State laws we're requiring people of very small communities to form redundant government entities: An IRA council, a second-class city, a nonprofit corporation, a profit corporation. I'm not sure that I agree with your comment that a village corporation under ANSCA is profit oriented and not eligible for BIA services and programs.

Mr. THREE STARS. They're not right now.

Senator STEVENS. Well, the law did not require that as far as I'm concerned. I've checked John Borbridge's memory of it. Didn't you agree with that, John? That the regional corporations were mandated to be profit oriented. The village corporation was up to each village as to whether they were profit or nonprofit.

Mr. THREE STARS. Well, most of them are profit oriented if not all of them in this area. And that's all I'm addressing, not the whole State of Alaska.

Senator STEVENS. I see. My point—one last one, my point is, is there any way that the BIA could work toward a consolidation of these entities so that each area would have the entity it chooses be it an IRA council, a traditional form of government, a second-class city or an ANSCA village corporation and try to eliminate the necessity for redundant governmental entities?

Mr. **Three Stars**. Now, Senator Stevens, we have in fact done that, because we had a listing from the AVCP president stating for whom they were recognizing and in that listing there are second-class cities, and so long as they are—he said they were all native in composition, there's no sweat, we'll work with them. And I intend to work with anyone that they recognize. I'm not trying to put additional obstacles in any one.

Senator **Stevens**. Thank you.

Commissioner **Borbridge**. One question that I have, Peter, to follow up on the point made by Senator Stevens, it's actually my understanding that the regional corporation even if it is profit oriented in fact is eligible for that matter under 93-638. It's simply that during the process of lobbying for the land claims and during the process of developing the provisions, a part in which both Senator played a very prominent role, it was early decided that it was very, very important that there not be incorporated into the land claims bill either directly or by indirect methods any implications that it was termination legislation. In order to insure this, we that were working on it worked to make sure that we did not lose eligibilty for servces to which we were entitled prior to passage of the act. And it's really my understanding that the regional corporation actually is eligible even though it may choose not to contract and may in fact decide as is very likely the case here that it would rather have, for example, instead of Calista doing it directly, it would much prefer that AVCP be the one to do it. And I might ask the area director is that is the understanding. I just want to be sure there isn't any confusion, it's not to—you know, to make sure that the record is quite clear. And if I may direct a question to Mr. Antioquia?

Senator **Gravel**. Please.

Mr. **Antioquia**. Certainly. The regional corporations are in fact by virtue of being named in the Public Law 93-368, we recognize them as being eligible. We also recognize them as being eligible for other programs such as the Indian Financing Act by virtue of their being mentioned in that as well. And as you point out it's by choice of the regional corporations primarily that they have not taken advantage of that recognition. If you recall my testimony in Juneau I pointed out that in our minds there is some inconsistency between those acts as well as the Land Claims Act itself which state that that was not intended to create additional hardships and new relationships with the Government, but that is a problem that your State [inaudible] and we certainly recognize [inaudible].

Commissioner **Borbridge**. With respect to the time and cost, Peter, involved in the contracting, and I personally gain a very clear impression that you're an advocate for doing this exact sort of thing, making the contract and working in getting the self-determination not only in terms of contracting but the decisions as to who will be involved in it done locally, what concerns might you have in terms of the time and cost and perhaps what kind of recommendations might you have? In other words, here's what I see, that a subregional or regional would be required to gain concurrence in order for them to proceed with contracts, and this is by requirement that is imposed by the Bureau, and the Bureau regards this as a necessary part of self-implementation, or self-determination. However, there is a cost, there is a time factor involved. Senator Stevens had mentioned the possibility that might be considered would be that a concurrence that would have a broad enough scope and perhaps cover several contracting possibilities or several services might be done. Do you view these as problems and do you have any recommendations as to what might be done? I think in light of the large number of villages here this area is certainly a fruitful area for examining how we might improve the mechanics of contracting. The idea, your desire, the desire of the villages. I think it's quite clear. How about the mechanics though, Peter?

Mr. Three Stars. Well, logistically, Commissioner Borbridge, the villages that are represented up in the upper Kuskokwim area by the—by Glen Fredriks' group, is so far removed, in fact Lime Village is almost next door to Anchorage, and for anyone from Bethel base to service that area would be, very possibly even for nonreturning—the essentials of the program, and since that group is compatible, they've worked together all these years, it's a natural unit. And to me that's the type of trend I would like to see. I would hate to see it fractionalize into 57 contracts. On the other hand I think if there are three or four it would be more manageable and probably easier on the part of everyone to gain concurrence and to monitor their respective areas.

Commissioner Borbridge. Do you think it would be possible, Peter, to look at contracting opportunities with sufficient leadtime so that meetings could be held with AVCP and subregional, and try to anticipate what type of contracts are going to come up and perhaps to arrive at some agreement that concurrence may be gained for several contracts if the people understand sufficiently and it's explained to them and if the language of the concurrence is such that a concurrence for one contract might be good for another? Do you think that's a practical approach?

Mr. Three Stars. I think it's practical in this sense: That it not be a futuristic one that it gives them authority to contract forever and forever on behalf of someone. I think it should be spelled out to a term of 2, 3, 5 years, whatever it happens to be.

Commissioner Borbridge. I'm sorry. I meant in terms of it might be just within that 1 year——

Mr. Three Stars. Yes.

Commissioner Borbridge. And it might be no more than to encompass several contracting opportunities. It might as a beginning cover maybe three specific contracts and we'll try it out on that basis to see how that would work.

Mr. Three Stars. Well, that is the present concept that is being worked on by Yupiktuk Bista now, and at one time they tried the whole agency approach, about 2 or 3 years ago, ran into a bind, and because of lack of money and lack of concurrence and lack of everything else nothing was ever achieved. But I'm very optimistic about it working this time.

Senator **Stevens**. Pardon me. Do you mean you think it's possible that they might be able to contract to take over the entire agency?

Mr. **Three Stars**. I'm saying now that without one organization running the whole piece of pie that it's possible that without much concurrence and compatibility in different subregion groups to make it work for the whole agency.

Senator **Gravel**. Thank you very much, Peter.

[The prepared statement of Mr. Three Stars and attachments follow:]

TESTIMONEY
OF
PETER P. THREE STARS

SUPERINTENDENT
BUREAU OF INDIAN AFFAIRS
BETHEL AGENCY
BETHEL, ALASKA
BEFORE THE
AMERICAN INDIAN POLICY REVIEW COMMISSION
OF THE
UNITED STATES SENATE INTERIOR COMMITTEE
JAMES ABOUREZK, CHAIRMAN
TASK FORCE ON
P.L 93-638, INDIAN SELF-DETERMINATION AND EDUCATIONAL
ASSISTANCE ACT.

September 4, 1976
Bethel, Alaska

MR. CHAIRMAN:

MY NAME IS PETER P. THREE STARS, SUPERINTENDENT, BETHEL AGENCY, BUREAU OF INDIAN AFFAIRS.

MY TESTIMONY HOPEFULLY WILL PROVIDE SOME BACKGROUND INFORMATION AND ALSO DELINEATE THE MAJOR OBSTACLES, AT LEAST AS I HAVE SEEN THEM, WITH THE IMPLEMENTATION IN ALASKA OF THE INDIAN SELF-DETERMINATION AND EDUCATIONAL ASSISTANCE ACT - P.L. 93-638.

MANY PEOPLE ARE AWARE OF THE UNIQUE PROBLEMS ALASKA PRESENTS, GENERALLY SPEAKING, MANY VILLAGE COUNCILS INSTEAD OF ONE TRIBE, LACK OF (ROADS) TRANSPORTATION, COMMUNICATIONS, VAST DISTANCE BETWEEN VILLAGES, ASTRONOMICAL TRAVEL COSTS, ETC.

HOWEVER, THIS KNOWLEDGE OF ALASKA BY TECHNICAL EXPERTS EVIDENTLY **IS** NOT TAKEN INTO SERIOUS CONSIDERATION WHEN LEGISLATION **IS** ENACTED AFFECTING THE ALASKA NATIVE PEOPLE. A CASE IN POINT IS THE INDIAN SELF-DETERMINATION AND EDUCATIONAL ASSISTANCE ACT (P.L. 93-638).

THE AMERICAN INDIANS IN THE LOWER 48 ARE CALLED TRIBES AND USUALLY ONE TRIBE OCCUPIES ONE CERTAIN AREA OF LAND. THEY GOVERN THEMSELVES UNDER ONE TRIBAL GOVERNING BODY OR COUNCIL, WITH A CONSTITUTION AND BYLAWS AND FEDERAL CHARTER UNDER THE INDIAN REORGANIZATION ACT (IRA) OR SOME OTHER DOUMENT RECOGNIZED BY THE SECRETARY OF THE INTERIOR.

IN THE BETHEL AREA, WHICH IS ABOUT THE SIZE OF THE STATE OF ARIZONA, THERE ARE 57 VILLAGES AND/OR COMMUNITIES WITH A NATIVE POPULATION OF ABOUT 15,000. EACH VILLAGE HAS ITS OWN GOVERNING BODY AND IN COMPARISON TO THE LOWER 48 CONCEPT WOULD CONSTITUTE A SEPARATE TRIBE. THE ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS (AVCP) IS COMPRISED OF THE ELECTED OFFICIALS FROM EACH OF THE 57 VILLAGES. IT IS A TRIBAL ORGANIZATION.

IT WAS THE AVCP WHICH INITIATED ACTION FOR THE SETTLEMENT OF LAND CLAIMS ISSUES. THE AVCP INCORPORATED THE CALISTA REGIONAL CORPORATION, AFTER THE

SETTLEMENT, TO BE ITS PROFIT-MAKING ARM. IT IS ENTRUSTED WITH CLAIMS SETTLEMENT FUNDS FOR INVESTMENTS AND BUSINESS VENTURES TO BRING DIVIDENDS TO ITS SHARHOLDERS.

IN ADDITION TO THE FRACTIONALIZED NATIVE COMMUNITY SCATTERED OVER A VAST LAND AREA, ONLY SIX OF THE 57 VILLAGES ARE ORGANIZED UNDER THE INDIAN REORGANIZATION ACT OF JUNE 18, 1934, AS AMENDED FOR ALASKA MAY 1, 1936. SINCE THESE ORGANIZATIONS WERE PRIMARILY FOR THE PURPOSE OF QUALIFYING FOR CREDIT LOANS, THEY ARE NOT ALWAYS ACTIVE IN TERMS OF EVERYDAY TRIBAL GOVERNMENTAL FUNCTIONS. MANY ARE STILL TRADITIONAL COUNCILS, I.E., WITHOUT WRITTEN DOCUMENTS TO HOLD SET ELECTIONS, PROVIDE FOR DEFINITE TERMS OF OFFICE, ETC.

IN THE LAST DECADE OR SO THE STATE OF ALASKA AND THE BUREAU OF INDIAN AFFAIRS HAS HELPED MANY VILLAGES TO ORGANIZE AND INCORPORATE AS 4TH CLASS CITIES IN THE HOPES OF PROVIDING STATE MONIES AND PROGRAMS TO THE VILLAGES. SINCE THEN, ALL 4TH CLASS DESIGNATIONS HAVE BEEN RAISED TO 2ND CLASS CITIES.

2ND CLASS CITY GOVERNMENTS ARE PRESENTLY PREVALENT IN THE BETHEL AREA. EXCEPT IN VERY UNUSUAL CASES, ALL 2ND CLASS CITY COUNCILS OUTSIDE OF BETHEL ARE ALL-NATIVE IN COMPOSITION. THEY ARE ACTIVE IN GOVERNMENTAL FUNCTIONS ON BEHALF OF THE NATIVE VILLAGE MEMBERS. IN ALL FAIRNESS, IT MUST BE POINTED OUT THAT LAND CLAIMS FUNDS DO NOT FILTER DOWN TO VILLAGE COUNCILS. VILLAGE COUNCILS, THEREFORE, MUST SEEK FUNDS FROM PRIVATE FOUNDATIONS, LOCAL EFFORTS AND FEDERAL AND STATE PROGRAMS.

IN SUMMARY, THE, THE MAJOR CONFLICTS AFFECTING THE TIMELY AND EFFICIENT IMPLEMENTATION OF P.L. 93-638, BE IT GRANTS OR CONTRACTS, MAY BE ATTRIBUTED TO THE FOLLOWING AREA.

1. LEGISLATIVE LANGUAGE ON ELIGIBILITY WAS NOT FULLY ADDRESSED FOR THE ALASKA SCENE.

   A. TRIBE - (A COMMON STATEWIDE NOMENCLATURE, BUT AN INAPPROPRIATE TERM FOR ALASKA),

a. VILLAGE

b. REGIONAL CORPORATION

c. VILLAGE CORPORATION

ADDITIONAL REQUIREMENTS ARE: (1) THE GOVERNING BODY MUST BE ELIGIBLE FOR BUREAU SERVICES AND PROGRAMS, AND (2) ANY TRIBAL ORGANIZATION IF IT SEEKS TO CONTRACT BIA SERVICES AND PROGRAMS MUST FIRST OBTAIN RESOLUTIONS OF CONCURRENCE FROM EACH VILLAGE IT PURPORTEDLY WOULD BE SERVING.

2. APPLICATION OF ACT

a. ALL VILLAGE COUNCILS ARE ELIGIBLE FOR BUREAU SERVICES AND PROGRAMS, SIMPLE? NOT SO. IRA COUNCILS AND TRADITIONAL COUNCILS ARE ELIGIBLE FOR BIA SERVICES. HOWEVER, 2ND CLASS CITY COUNCILS, BEING ORGANIZED UNDER STATE STATUTES (NOT ONE DIRECTLY APPLICABLE TO U.S. GOVERNMENT TRUST AND WITH SEATS OPEN TO NON-NATIVES IN THE COUNCIL) ARE NOT THEREFORE ELIBIBLE FOR BIA SERVICES. A 2ND CLASS CITY COUNCIL IS A STATE OF ALASKA INSTRUMENT: NOT/WITHSTANDING ITS COMPOSITION BEING ALL-NATIVE.

b. REGIONAL CORPORATION - CALISTA IS PROFIT ORIENTED - NOT ELIGIBLE FOR BIA SERVICES AND PROGRAMS.

c. VILLAGE CORPORATION - PROFIT ORIENTED - NOT ELIGIBLE FOR BIA SERVICES AND PROGRAMS.

3. POTENTIAL CONTRACTORS

TRIBAL ORGANIZATION: OUTSIDE OF GOVERNING TRIBAL COUNCIL CONCEPT.

a. AVCP - REGION-WIDE TRIBAL ORGANIZATION - COMPRISED OF 57 VILLAGE COUNCIL PRESIDENTS IN BETHEL REGION. IS A REGION-WIDE TRIBAL ORGANIZATION

b. YUPIKTAK BISTA, INC.- INCORPORATED BY AVCP TO CONTRACT WITH STATE, BIA, AND OTHER ORGANIZATIONS TO PROVIDE SOCIAL SERVICE PROGRAMS TO THE 57 VILLAGES. THEY HAVE IN THE PAST ATTEMPTED TO BE PRIME CONTRACTORS FOR BIA PROGRAMS AND SERVICES.

(c) KUSKOKWIM NATIVE ASSOCIATION - (KNA) SUB-REGIONAL GROUP OF 11 VILLAGES IN THE UPPER KUSKOKWIM. THEY WANT TO DO THEIR OWN GRANTS AND CONTRACTING.

(d) YUGTAK CORPORATION - 13 VILLAGES - A SUB-REGIONAL ORGANIZATION SET UP TO COORDINATE THE WISHES OF THEIR MEMBER VILLAGES - GRANTS, CONTRACTS.

(e) NELSON ISLAND - 7 VILLAGES INCLUDING NUNIVAK ISLAND - ALREADY HAVE SOCIAL SERVICES CONTRACT.

4. LOCAL DETERMINATION DIFFICULT BUT FINALLY MADE
   1. WHO IS RECOGNIZED TRIBAL ENTITY?
      (a) EACH VILLAGE
   2. WHO PRESENTLY PROVIDES GOVERNMENTAL FUNCTIONS FOR THE VILLAGES?
      (a) IRA, TRADITIONAL, 2nd CLASS CITY.
      NO UNIFORM ANSWER.

5. WORKING DEFINITIONS FOR FY-76

RECOGNITION IS GIVEN TO THE VILLAGE AS A "TRIBE", NOT TO THE COUNCIL PRESENTLY PROVIDING GOVERNMENTAL FUNCTIONS. THEREFORE, 2ND CLASS CITY COUNCILS COMPRISED WHOLLY OF NATIVES CAN BE RECOGNIZED FOR PURPOSES OF SUBMITTING GRANT APPLICATIONS FOR FISCAL YEAR 1976. HOWEVER, IMMEDIATE STEPS MUST BE TAKEN TO REACTIVATE IRA COUNCILS OR FORMALIZE TRADITIONAL GOVERMENTS TO APPLY FOR GRANTS FOR FY-77.

THIS RECENT DECISION FOR AFFIRMATIVE ACTION WAS REACHED AT A MEETING IN ANCHORAGE AUGUST 20 WITH NATIVE LEADERS, THE AREA DIRECTOR, SUPERINTENDENTS AND AN OFFICIAL FROM THE WASHINGTON, D.C. OFFICE WHO IS IN CHARGE OF THIS PROGRAM. WE HAVE A VERY SHORT TIME FRAME WITHIN WHICH TO GET FY-76 APPLICATIONS SUBMITTED. BUT I'M SURE WE CAN DO IT. EVERYONE IS VERY COOPERATIVE AND WILLING TO WORK HARD AT THIS COMMON GOAL. FY-77 GRANT APPLICATIONS SHOULD BE EASIER TO DO.

MR. CHAIRMAN, THIS SETS BEFORE THE COMMITTEE THE MAJOR ISSUES OF (1) WHAT IS A TRIBE AND (2) WHO SHOULD BE THE PRIME CONTRACTOR FOR BIA SERVICES AND PROGRAMS. JOHN PAUL JONES, OUR AGENCY TRIBAL OPERATIONS OFFICER, AND I WILL BE HAPPY TO ADDRESS ANY QUESTIONS YOU MAY HAVE.

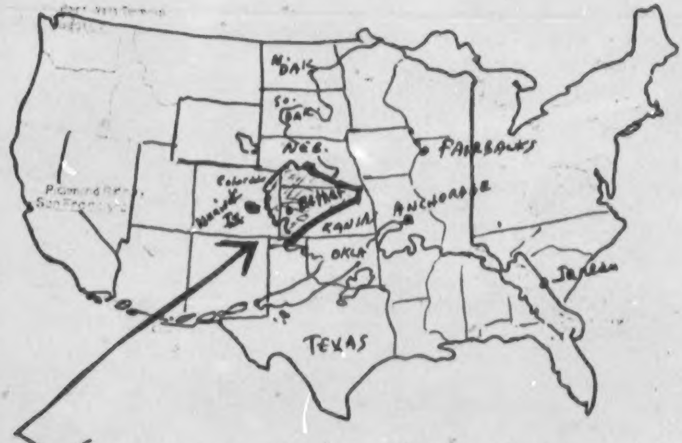
THANK YOU.

BETHEL AGENCY PROGRAMS AND SERVICES

BRANCH	LAST YEAR'S BUDGET	TOTAL NUMBER OF EMPLOYEES: AGENCY	FIELD	TYPES OF POSITIONS AND SKILLS:	NATIVE HIRES: ESKIMO	AM. IND.
1. Executive Dir.	59.2	2	0	Superintendent		1
				Secretary	1	
2. Administrative Services	91.6	4	0	Administrator		
				Property & Supply	vacant	
				Personnel	1	
				Clerk Typist		1
3. Education	*4757.9	16	288	Administrator		
				Education Specialist		1
*includes title one				Principals		
				Teachers	3	1
				Education Aides	113	
				Cooks	30	
				Labors	28	
				Contract Services Bi-lingual	4	
4. Facilities Mgmt.	2783.9	29	51	Manager		
				Asst. Manager		
				Foreman	1	
				Electrician	1	
				Diesel Mechanic		
				Auto Mechanic	1	
				Furance & Heating	1	
				Plumbing	1	
				Sanitation Tech.		1
				Painter	1	
				Carpenter	2	
				Coordinator	1	
				Secretary	1	
				Clerk Typist	1	
				Janitors	23	
				Maintenancemen	28	
5. Tribal Operation	53.1	2		Officer	1	
				Clerk typist	vacant	
6. Land Operations	132.8	2		Officer		
				Clerk typist	1	
7. Social Services	119.8	5		Supervisor		
				Social Worker		
				Social Worker	vacant	
				Technician	1	
				Clerk typist	1	
8. Housing	399.6	2		Officer		1
				Clerk Typist	vacant	
9. Credit & Financing	39.6	2		Officer	vacant	
				Clerk Typist	vacant	
			Part-time	covered by Adm. Mgr.		
10. Employment Asst. Direct Ad. Voc. Trng.	141.4	3		Officer	1	
				Counseling		1
				Clerk Typist	vacant	
11. Realty	167.4	4		Realty Specialist	2	
				Clerk Typist	2	
TOTALS	$8,746,300.	71	339 410		251	7 258

ACTIVITY	TRANSITIONAL QUARTER ALLOTMENT	TRAVEL ALLOCATION		
		ADMINISTRATIVE	CLIENT	TOTAL
3599/7161 EXECUTIVE DIRECTION ELEMENT 71	$15,200	$3,500	-0-	3,500
3599/7290 ADMINISTRATIVE ELEMENT 72	$23,500	$4,000	-0-	4,000
3100 - INDIAN EDUCATION ELEMENT 10-EDUCATION & TRAINING	$90,000	$6,000	-0-	6,000
ELEMENT 11-SCHOOL OPERATIONS	787,800	46,000	-0-	46,000
ELEMENT 14-SPECIAL EDUCATION	44,200	1,000	-0-	1,000
ELEMENT 13-VOCATIONAL TRAINING	30,000	-0-	1,500	1,500
3200/2163 - INDIAN SERVICES ELEMENT 21-TRIBAL ADMINISTRATIVE	10,000	700	-0-	700
3200/2168 - INDIAN SERVICES ELEMENT 21-AGRICULTURAL SERVICES (Land Operations)	30,000	700	4,000	4,700
3200/2261 - SOCIAL SERVICES ELEMENT 22 -GENERAL ASSISTANCE	200,000	-0-	2,500	2,500
ELEMENT 2263-CHILD WELFARE ASSISTANCE	25,000	-0-	3,000	3,000
ELEMENT 2265-MISCELLANEOUS ASSISTANCE	2,000	-0-	-0-	-0-
ELEMENT 2266-SOCIAL SERVICES	60,000	5,000	-0-	5,000
3200/ - INDIAN SERVICES ELEMENT 24 - HOUSING	300,000	3,500	-0-	3,500
3300 - TRIBAL RESOURCES DEVELOPMENT ELEMENT 32-CREDIT AND FINANCING	9,000	5,000	-0-	5,000
ELEMENT 33 -DIRECT EMPLOYMENT ASSISTANCE	32,000	700	3,000	3,700
3400 - TRUST RESPONSIBILITIES ELEMENT 42-REAL ESTATE SERVICES	40,400	8,000	-0-	8,000
3500 - GENERAL MANAGEMENT AND FACILITIES OPERATION: ELEMENT 63 - FACILITY, OPERATION AND MAINTENANCE	879,300	29,700	-0-	$29,700
TOTALS:	$2,578,400	$113,800	$ 14,000	$127,800

ALASKA MAP
ON
U. S. MAP



The Association of Village Council Presidents (AVCP) and Bethel Agency Area of Jurisdiction covers an area equivalent in the Lower 48 to parts of:

1. Nebraska
2. Kansas
3. Colorado
4. Oklahoma

Senator GRAVEL. Our next witness is Mr. John Paul Jones, BIA Tribal Operations.

STATEMENT OF JOHN PAUL JONES, TRIBAL OPERATIONS OFFICER FOR BETHEL AGENCY, BUREAU OF INDIAN AFFAIRS

Mr. JONES. My name is John Paul Jones. I'm the tribal operations officer for Bethel agency, and originally from Chevak, Alaska.

My testimony will be based on the problems that I face in implementing section 104 of Public Law 93-638.

The first problem that we faced was a definition of a tribal governing body. In the AVCP region we have 33 second-class cities, and before those 33 villages became second—or fourth-class cities and then later on became second-class cities. They were traditional or IRA towns. When that happens, the traditional or IRA status just, you know, the membership just automatically became the second-class city.

And we have one first-class city and eight—well, seven IRA councils, five of whom are second-class cities also. And we have one federally recognized traditional council.

On top of that we have 13 traditional councils that have not gotten the status of second-class city or IRA council.

In addition to that we have nine village corporations which in total comprise the 57 AVCP villages.

Now, with the original definition we could have had only 15 of our villages eligible for the—one of our planning grants, for being able to contract under 93-638. But we have gotten a letter from the president of AVCP recommending us to recognize some of the second-class cities that are composed—that are Natives and in cases where they had non-Natives on there we went and recognized the village corporations.

For the AVCP region to be recognized as a tribal governing body, from my working with the region as a whole I can foresee some problems arising from there. But if we were to recognize AVCP as a tribal governing body it would be eligible to contract directly with the BIA without, at least according to my interpretation of the act, without going to each of the villages and getting a resolution from each one of the villages. So, therefore, the problems which arise from there, you know, some of the villages now do not want to be involved in any contracting at his time.

And another problem would be the subregional groups that may want to contract or go after the planning grants as a subregional group.

As you know, AVCP was formed to try and get the Native land claims, and at that time it was—the whole region had to unite and try and get the land claims. And then they achieved in getting the land claims. Now that people are beginning to set back to their own subregional groups. So we have KNA upriver, and we have Yugtak Corp. which comprises 18 villages up and down the Kuskokwim River, and we have 5 villages out on Nelson Island which calls themselves United Villages. And then we have LKCC, Lower Kuskokwim Coastal Corp.

Now it may be that these subregional groups may want to go after these planning grants for their own area.

Now last Thursday I had a meeting with KNA upriver, that's a subregional group, on the planning grants. And it was easy to—well, it was easy for them to come to an agreement, you know, on what they wanted, because they are a subregional group and they know what they wanted for their area.

And then yesterday we had a similar meeting down here of the rest of the villages, which took in below Kalskag down to Platinum and up the coast and up the Yukon. And my observation was that, you know, in that meeting we had yesterday was not—you know, some of the people wanted to go with the AVCP and go after the planning grants. Wanted the AVCP to go after the planning grants. But, you know, there were some subregional groups that held back, or some of the villages that held back.

So I think you're going to have to really examine what the situation is now. AVCP at one time was united to try and get the land claims. Now that they've gotten it, you know, they're more interested in their subregional groups.

Senator GRAVEL. Thank you. I have no questions. Senator Stevens.

Senator STEVENS. I'm still worried about this problem of the second class cities and I'm trying to understand what it means to not recognize the second class cities for grants. What services would be performed by the second class city under a grant which you feel would be improper if you had, say, a 2 percent nonnative population. I assume that there are people in these villages, the minister perhaps in some instances, other residents who are nonnative, who might be eligible for social services for instance. If the second class city made an application for the social services, why would they—why would the presence of a small proportion of nonnative population make any difference as far as that—its recognition is concerned?

Mr. JONES. I'm sorry, Senator, I cannot really answer that question presently.

Senator STEVENS. What I'm trying to make certain is whether it's a legalistic interpretation of Federal law that forces this conclusion or a desire to exclude the nonnative population. Which is it? Do you know? Clay? I don't want to give you a question that you——

Mr. JONES. I think Clay can better——

Senator STEVENS. Clay, what is it?

Mr. ANTIOQUIA. Senator Stevens, we recently considered this problem and it's been our determination that second class cities that are predominantly, quote-unquote, "Native" would not be ineligible by virtue of the fact that they were second class cities. We made this determination in the positive sense that you're suggesting.

Where the cutting line is we haven't determined yet. We felt, however, that in the AVCP region here that the villages are predominantly Native, that we wouldn't have that problem. We would recognize the second class cities as really being second class cities incidentally to being traditional villages and traditionally governed communities. So it's the traditionalist of the community that we're recognizing and looking at the second class city designation as incidental. In fact in discussion with the Alaska community—department of community and regional affairs—they have concurred that this is probably appropriate that in fact they offer a more traditional village as opposed to second class city.

So that is our—we are recognizing that.

On the other hand in such areas as Southeast Alaska where there are also second class cities, there's a predominant number of non-Indian people there. We are not making that same determination in those cases. But in this area we are.

Senator STEVENS. But you haven't——

Senator GRAVEL. Excuse me, Senator Stevens. But you haven't made a precise difference between the two. It's easy in this area because it's so predominantly and in southeastern the majority is white in many of them so it's easy there. But there's a big borderline, there's a big group in the middle that as these developments go forward it could be a problem.

Mr. ANTIOQUIA. Our analysis, Mr. Chairman, is that this particular position that we've taken will probably cover most of the villages throughout the State. Not just in the AVCP region, but also Nome, and the Arctic Slope and the interior villages. And then we would deal with those that are—that don't fit that definition on an individual basis, again if there is an IRA form of government we would recognize that, a traditional form, or if nothing else, then the village corporation that exists in that community because of their definition of a tribe.

Senator GRAVEL. Thank you. Senator Stevens.

Senator STEVENS. Well, my problem with—we're all taxpayers to the State, the impact of having, for instance in the social service area, a very small percentage of the population not covered would—still the obligation of the State to provide those social services would mean that there would have to be a service entity to take care of a very small proportion of a small village population. Or we got into it as I recall in headstart where there was apparently a decision that one or two children could not receive—could not participate in a headstart program because they were not BIA beneficiaries. The net effect of that was that we had to come up with a program again under State law, financed federally subsidized, to provide a second headstart program where the group would be so small that it would not be, you know, an operable program.

I do think we have to watch out for rigid definitions. I'm glad to hear you're not being rigid, that—but I think that determination ought to be somewhat cost oriented as to the nonbeneficiary population. Could that population reasonably be served by any other entity of government if they're excluded? If they could not, they ought to be included in terms of—and find a way to impact the financial side of it through State funds or Federal funds from other sources. I have no further questions.

Commissioner BORBRIDGE. A quick question here. Clay, are there any problems encountered, the recognition being extended to IRA form of government as opposed to traditional village, or has that always worked out to the acceptance of the village?

Mr. ANTIOQUIA. We've pretty widely spread the form of equality I described. And we have not had a major—or any opposition to that part as far as I'm aware.

Senator GRAVEL. Thank you, sir. Thank you, John Paul. I'd like to call Eddie Hoffman who is now come into the audience. Mr. Hoffman, would you grace us with your testimony?

STATEMENT OF EDWARD HOFFMAN, SR., PRESIDENT, ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS, BETHEL, ALASKA

Mr. HOFFMAN. I have a statement here, and when I get through with it I'd like to talk about the BIA, what they're doing to the villages.

My name is Edward Hoffman, Sr., and I am president of the Association of Village Council Presidents, an organization that was formed by the 57 villages on the Yukon-Kuskokwim Delta in 1959. The members of the association are all village council presidents duly elected by their villages. This is the only body in this region with quasi-governmental powers. The AVCP was formed to work for the successful conclusion of the land claims issue, and just as importantly to strengthen the political standing of the region which prior to this time was nil. The AVCP during the years of working on the land claims was recognized by the Federal Government as representing all Yupik Eskimos in this region. The AVCP is also recognized by the villages in this region as a tribal governmental organization.

No. 1, the tribe in the Yukon-Kuskokwim Delta is the Yupik Eskimo. We have the same language, the same heritage, the same history, the same leadership. We also have the same problems of poverty, poor health, political abuse, and so forth.

No. 2, the regional corporation cannot be looked upon as a tribal governing body as its function is one of business and land management. It is the business arm of the AVCP.

No. 3, the village corporations cannot be looked upon as tribes as they are formed for business and land management.

No. 4, a village should not be considered a tribe unto itself as it is only one group in the Yupik Eskimo tribe and cannot determine for all villages issues of importance to every village. And in this region, what happens in one village, what happens to one Yupik Eskimo will no doubt affect each and every other village and each and every Yupik Eskimo.

No. 5, if every individual village were considered a tribe the ability of the Yupik people to effectively work on their problems will be greatly reduced. The political strength of the Yupik people will be reduced intensively. And it will take the people of this region 53 years to even begin to address urgent problems which need tribal attention now.

No. 6, the Association of Village Council Presidents is the tribal governing body. It must remain the tribal governing body if we as a people are to continue effectively addressing and solving our cultural, social, physical, and political problems. For purposes of dealing with Yupik tribal issues, the AVCP represents all Yupiks. In dealing with the Federal Government, as it did during the land claims fight, the AVCP represents all Yupik Eskimos.

No. 7, the fact that the AVCP is the tribal governing body does not in any way hamper the activities of the second class cities in each community. Their function is not exclusively for Yupik, cannot be exclusively for the Yupik as a city organized under the State of Alaska laws cannot be discriminatory in nature. At this time only the second class cities are the main functioning governmental bodies in the villages. The AVCP does not represent second class cities. It represents the Yupik Eskimos in the whole region in matters affecting their livelihood, be it political, social, or cultural.

No. 8, the Federal Government must not fragment the unity of the Yupik Eskimo. The Federal Government should not interfere with the inner workings of a tribe. It should only recognize, and it should recognize that the Yupik people are one tribe and in order to be strong, they must remain united. The AVCP represents all Yupik Eskimos. It is the tribal governing body of this region.

With these points in mind, it is the recommendation of the AVCP that the Congress of the United States recognize the Association of Village Council Presidents as the tribal governing body, as they did during the Native land claims.

Senator GRAVEL. Thank you, Edward. Do you want to make a point or two with respect to the BIA, too?

Mr. HOFFMAN. Yes; I was listening this morning on the radio when I was delivering oil, you know, and somebody, I think Mr. Three Stars, he was talking that he was helping out the villages.

To my knowledge, I don't think the BIA here is doing very much good for the villages. Instead they should be helping them, you know. They do—all the villages come to get their support from BIA and some of them got no—there's no action coming out of them. And if Mr. Three Stars is here I wish he would answer that question for me.

Senator GRAVEL. Eddie, I would rather not make the situation a confrontation situation as we are pressed for time, because we have to complete our testimony by 11 o'clock and I've got three other people to hear.

I think we get the message and we're the ones that will be making the decision for the comment that you just made and realize the importance of it and the emotion behind it. And so I think we'll let that one charge there, I'll not require any rebuttal since we'll be addressing that as we go forward.

Senator STEVENS. Yes; but we could ask for some documentation for the record of what type of assistance has been sought that has not been forthcoming. Eddie, you could get your people to send us some documentation on that?

Mr. HOFFMAN. Yes. [Not received.]

Senator GRAVEL. I think that would be—in fact that would be more valuable if you could deal with it in specifics and say that this village at that point in time had this meeting, requested that and then nothing came of it.

Mr. HOFFMAN. Yes; they can.

Senator GRAVEL. If you could give us a couple, quote, "horror stories," it might be real helpful to us to focus on where the problem is in this regard. Could that be done?

Mr. HOFFMAN. Yes; that could be done.

Senator GRAVEL. I appreciate that. Thank you. Senator Stevens, do you have any questions? I have none.

Senator STEVENS. No; I don't have any questions.

Senator GRAVEL. Jimmy Endever wanted to speak in place of Paul Kiyunga. We have—I have two other witnesses, Joseph Bruno and Robert Jackson. And we do have a problem that we want to try and make our charter to Fairbanks in about 10 minutes, so I wonder if I might just restrict each individual to 3 minutes. I realize it's unfair coming at the end like this, but we have no control over our time and we try to get equally to all areas. So we'll just put a time limit of 3 minutes for the next three persons giving testimony.

STATEMENT OF JIMMY ENDEVER, YUPIKTUK BISTA, INC.

Mr. Endever. Thank you Senator Gravel.

Senator Gravel. Thank you.

Mr. Endever. If we have no time, I—since we have no time, I——

Senator Gravel. That's OK, I'll follow along and you go ahead and give your testimony.

Mr. Endever. Since the president of the Lower Kuskokwim Village Corporation was not present in this hearing, I really appreciate that he works for the corporation. The corporation was formed, consisting of four villages and population estimated around 900 and it formed on the nonprofit corporation. And, I would like to recommend that it be recognized as a tribal organization on the subregion. To be recognized in that.

Since we had a workshop on the self determination yesterday, there was three workers from different villages. It seems that we decided to talk with their people to get together and to have that 93-628 (sec. 104) planning grant.

Since I have no time, I really recommend that you recognize that corporation as a tribal organization under the Self Determination Act.

Senator Gravel. Is that the AVCP corporation you mean?

Mr. Endever. That's what they call the Lower Kuskokwin Village Corporation, which only consists of four villages.

Senator Gravel. Four villages. And, your recommendation is that that be the contracting agent or defined under as a tribe for these purposes?

Mr. Endever. Yes.

Senator Gravel. That's consistent with the other testimony. I have no questions. Senator Stevens?

Senator Stevens. No. Thank you.

Senator Gravel. Mr. Borbridge?

Commissioner Borbridge. No.

Senator Gravel. Thank you very much, Jimmie. Joseph Bruno representing the United Villages? Joseph?

STATEMENT OF JOSEPH BRUNO, REPRESENTING THE UNITED VILLAGES

Mr. Bruno. I think United Villages would still like to have their own contract from the BIA or some other organization as far as I know, but I'm not sure right now, see, what they have to say. At Tooksik Bay we still have contracts from BIA. We have our own bookkeepers and everything like that. We handle the whole thing. The only problem we have is that the reimbursements when we have to pay from the city when we can't get the money.

That's all I have to say.

Senator Gravel. Thank you. How many villages do you have?

Mr. Bruno. Well, there's about five villages right now.

Senator **Gravel**. What are the names of them? Tooksik and?

Mr. **Bruno**. Tooksik, Tyonek, Neotuk, Nagvent, and Chefornak.

Senator **Gravel**. Very good.

Commissioner **Borbridge**. I might comment, I'm sure that the reporter has all of those names.

Senator **Gravel**. Unfortunately our time is up and we do have to fly to hold a hearing to also listen to the problems of the people in the Fairbanks area, and so I would like to thank you very much for testifying, and state that we're very grateful to the entire community and the quality of testimony that we've received, and declare these meetings adjourned. Sorry that we can't stay longer, those are just the restrictions of the unfortunate very fast life that we have to lead. I know speaking for Senator Stevens, Commissioner Borbridge, and myself, that we would like to stay here longer, but it's just impossible.

Senator **Stevens**. And, anybody that has views, there's 30 days as Senator Gravel said, we will keep the record open and you can write to any one of the three of us and we'll see that the statements get in the record. Thank you all very much.

Senator **Gravel**. Thank you.

Commissioner **Borbridge**. Thank you.

Senator **Gravel**. The hearing is recessed.

[The hearing was recessed, to reconvene the same day, at the City Hall, Fairbanks, Alaska.]

PROBLEMS OF DEFINITION OF TRIBE IN ALASKA RELATING TO PUBLIC LAW 93-638

SATURDAY, SEPTEMBER 4, 1976

U.S. SENATE,
SUBCOMMITTEE ON INDIAN AFFAIRS,
OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Fairbanks, Alaska.

The subcommittee met, pursuant to notice, at 3:30 p.m., at the City Hall, Fairbanks, Alaska, Hon. Mike Gravel presiding.

Present: Senators Gravel, Stevens, and Commissioner John Borbridge, American Indian Policy Review Commission.

Also present: Tony Strong, professional staff member.

STATEMENT OF HON. MIKE GRAVEL, A U.S. SENATOR FROM THE STATE OF ALASKA

Senator GRAVEL. This is a hearing of the Subcommittee on Indian Affairs of the Interior Committee of the U.S. Senate in conjunction with the American Indian Policy Review Commission, and John Borbridge on my left, as most of you know, is the Commissioner of that Commission. And, Senator Stevens, who will be here shortly, he came in another car, and myself. Senator Stevens and I were appointed as ex officio members by Senator Jackson on the committee.

The hearing was initially chaired in Alaska by Senator James Abourezk of South Dakota, who authored the American Indian Policy Review Commission, and is chairman of that Commission and also is chairman of the Subcommittee on Indian Affairs for the Interior Committee. Senator Abourezk chaired the hearings both in Juneau and in Anchorage, and we continued on with John Borbridge to Bethel and here. Senator Abourezk had to get back to South Dakota, as you all know, this is a very important weekend from the point of view of State fairs and presence from a political point of view. And, so Senator Abourezk was only able to devote a sum of his time, and we are very grateful for that because both Senator Stevens and I have requested that he come up here and conduct these hearings, which we feel would be very important in making a determination of future policies with respect to the granting of services to our Native communities by the people in the Native communities. We focus on one particular piece of legislation, the Indian Self-Determination Act, and with its passage 3 years ago, we run into many difficulties or conflicts of delivery service to organizations, both the local level and at the national level. And this is an effort to try and carry it out to what should be in terms of a new definition of the Indian tribe in order to have a more effective program in this regard.

The record of this subcommittee will be open for an additional 30 days, so if there is anybody wishing to amplify their statement they make today or knowing of anybody who would want to from another Native community in this district that would want to send in testimony as part of the record, they can send it to Senator James Abourezk, U.S. Senate, Washington, D.C., or myself or Senator Stevens and we'll be sure that it's placed in the record.

I have a list of witnesses that are to be heard, we obviously have a time constraint, but we'll try to address ourselves in detail to the various testimony that we receive. So, witnesses can either choose to read their statements or summarize their statements, and then we will have individual questions and answers. At this time I would like to open it up to Senator Stevens for a few comments. Senator Stevens.

STATEMENT OF HON. TED STEVENS, A U.S. SENATOR FROM THE STATE OF ALASKA

Senator **Stevens**. Thank you very much. Sorry about the delay, there was a wreck on the way coming in, and we were delayed. We, I think, have a fairly good record today from Bethel and throughout the hearings so far, and I'm hopeful that the people here will speak up as forcefully as the others have. I still remain convinced that we need to find a mechanism to make self-determination work in the very selection of the tribal governing body, so that the process itself is not one where Congress or anyone else mandates a specific conclusion as to what level of government or what type of government must in fact be the governing body.

It is important, I believe, that we act to eliminate what seems to me to be a legislative incentive for proliferation of entities involved in each village. We find four or five more entities that an individual Alaska Native could be associated with. It would be essential, I think, that we take action to assure that the people of each area to select the type of entity as they want and mandate its recognition by any agency that's involved or any known or funding program or any other type of program that is available under Federal or, I think as a matter of fact, under the State law. We ought to put them both together. But I appreciate you taking the time on Saturday afternoon to meet with us and I know the time constraint, so I'm happy to be with you.

Senator **Gravel**. Thank you. Commissioner.

STATEMENT OF HON. JOHN BORBRIDGE, COMMISSIONER OF THE AMERICAN INDIAN POLICY REVIEW COMMISSION

Commissioner **Borbridge**. I certainly am very appreciative of the time and attention that has been given in matters relating to self determination and other associated concerns, not only by Senator Abourezk, who is chairman of the committee, and made his first trip to Alaska, but also by our own Senators, Senators Gravel and Stevens.

I also would like to express on behalf of the Commission, the concern that we have not only with the broad spectrum of matters pertaining to Indian Affairs and the relationship between American Indians and Alaska Natives and the Federal Government, but we're also concerned with the fact that such issues are more sharply defined in the implementation of such legislation of various acts, these are a matter of concern to the Commission.

Thus, as has been indicated by Senator Gravel, the Senate subcommittee is concerned with this analysis and with the hearings from which we hope to obtain information as to how well the acts have been implemented, the American Indian Policy Review Commission is likewise concerned, and will have available to it, such information as what we receive at the hearings.

I want to indicate, it's also a pleasure to again be in Fairbanks and I'm particularly pleased with the turnout today. Thank you.

Senator GRAVEL. Thank you, John. Our first witness is Roger Huntington. Roger.

STATEMENT OF ROGER HUNTINGTON, CITY MANAGER, GALENA, ALASKA

Mr. HUNTINGTON. First of all, I'm struck by surprise because I didn't think I would be the first one.

Senator Stevens, Senator Gravel, John Borbridge, and visitors and tribal Indians, my name is Roger Huntington, I'm from Galena, and I will briefly give my testimony.

In the beginning here I give a little history of Galena to show you some occurrences that have happened and some problems that have developed in these various processes.

Prior to 1971, Galena has been led by a traditional council. Unwritten laws and tradition were the governing factors of the Native and non-Native community. The need for funds to govern were practically nonexistent. All health, education, and welfare was granted eighth by the state of the Federal Government. Community involvement in these areas was nill, if nonexistent. Then, came the flood of 1971. BIA, Federal and State assistance also flooded in, rehabilitation it was called. The Native community accepted the help, and in doing so, took on new responsibilities and established a need for accountability of money and time, but most of all they established a need to organize. A legally recognized organization was a prerequisite to obtain funds to carry on the new community responsibilities.

The State suggested incorporation of a second class city. BIA and Native leaders at high levels encouraged the idea. From the local Native perspective self-government; funds from State revenue sharing to operate and legal recognition for obtaining more funds was the way to go. Incorporation into a second class city became a reality. With it came new federally subsidized homes, water and sewer plants, opening of grounds for homes and businesses away from the flood plain, and most of all, came a need to govern our school system. To bring about self goverence of the local school system, the community incorporated into a city of the first class. With this new power a $5 million school complex is becoming a reality, and mounds of financial responsibility throughout the local community affairs. New sources of funds were needed to match operation responsibilities. Various Federal and State employment acts helped out.

In these few years, the village of Galena broke from the apron strings of BIA; were we edged by them to do so? We were once classed as a native entity. What are we now, white? The question is unanswered.

The native organization founded under ANCSA is a venture for profit. Though their interest in community affairs is mutual to that of the city and our governing bodies are of the same persons, native, they can't forward direct financial support. They provide technical support.

In light of this new Public Law 93-638, this process as discussed above has been and still is being implemented; and that the city of Galena via the blood of our native leaders and native corporation, Notagadaleedin, have the responsibility of all health, education, and welfare in our community.

And also, we recognize that the Tanana Chiefs Conference as our supreme leader for securing means to carry on these responsibilities to natives in our community.

I believe, that effective, efficient implementation of Public Law 93-638, native communities faced with native affairs must have a resource for technical assistance, funds, and direction. TCC has been our leader from times before my birth, and will be past my death, for TCC began through my forefather's Athabascan blood and exist today through my blood, and shall exist tomorrow through the blood of my Athabascan son.

Thank you.

Senator GRAVEL. Thank you. Do you have any questions? All right, thank you. The next group is a panel made up of Al Ketzler, Tom Richards, and Steve Matthews. Why don't the three of you just come up to the mike, and Al why don't you tell us how you want to handle this.

Mr. KETZLER. I have a witness statement which I'll read in the record, and Steve has one also. Tom doesn't, he's been out traveling and has a lot of information on 93-638, so we'll make a statement and then we'll supply one for the written record.

Senator GRAVEL. Fine.

STATEMENT OF AL KETZLER, PRESIDENT, TANANA CHIEFS CONFERENCE

Mr. KETZLER. Senator Gravel, Senator Stevens, Commissioner Borbridge, and distinguished guests, at this time I would like to express my appreciation on behalf of the entire Tanana Chiefs Conference for allowing the opportunity for Alaskan Natives to testify on Public Law 93-638, and your continued efforts to champion the cause of all Alaskans.

The testimony of the Tanana Chiefs will be presented in three parts, Mr. Tom Richards, director of our native services program will address some specific problem areas in contracting partial management of the BIA Fairbanks Agency contract as they relate to 93–638. Mr. Steve Matthews will also address some concerns in contracting for health care in the region and finally, the test of my presentation will focus on the Alaska amendment in reference to definition of a tribe.

I submit with no hesitation that the Tanana Chiefs Conference is the traditional governing body of the Athabascan people of interior Alaska. In the early days of this century the old-time chiefs used this organization as a forum to express the issues of the day. Then in the early 1960's, when the move originated to achieve a claims settlement, the TCC was revitalized. The tasks of the 1961 Tanana Chiefs were not restricted to land claims, but also the people concerns such as health, education, and social services. The Tanana Chiefs until late 1971 served as the sole governing body covering the entire region, the conference was operated as an unincoporated body, then on September 27, 1971, articles of incorportion were filed and bylaws were approved by the full board of directors. I have attached as attachment one, the articles of incorporation filed on said date. The articles are explicit in the essence of the chiefs organization, I would like to call special attention to section 4–F of these articles. The following is a verbatim account of section 4–F.

> Historic succession. The corporation is the Historic successor to the Tanana Chiefs Conference. The traditional consultive and governing assembly of the Athabascan people of Interior Alaska, from time immorial, and shall have all the rights, duties, powers, and privileges of this historic assembly.

I have also included in my presentation as attachment to the first page of the reorganization report adopted during the March 1973 convention when Doyon and Tanana Chiefs Conference separated.

Attachment 3 is a resolution passed by the board of directors of Doyon, Inc. utilized in negotiating our present contract with the BIA. There's a little error in that. I'd better clear it up. It will be used in negotiating the contract that we hope to enter into, our present contract, the Snyder Act.

Attachment 4 is a sampling of resolutions passed by the board of directors of the Tanana Chiefs, indicating the broad service the chiefs provide as a tribal governing body for the Athabascan people.

Clearly and conclusively, this assortment of data must prove that the chiefs are in fact a viable tribal organization.

In order to provide a means within Public Law 93–638 to allow the TCC to participate, it is imperative that the Alaskan amendment be adopted. A copy of that proposed amendment accepted by the AFN board of directors is attachment 5.

There is no doubt that should the amendment be adopted that should an instance occur where one of our villages or Doyon wishes to contract for the same program, a satisfactory agreement will be arranged.

To conclude my testimony, I would like to comment on the testimony recorded by Clarence Antioquia, area director, Bureau of Indian Affairs. Specifically, I would like to make reference to the portion of the testimony regarding prerequisite consultation of villages prior to entering into a contract. I would think it a little bit late that the Bureau would now try to play the advocate role for Alaska's Native villages, now when actually the counterproductive attitude of the Bureau was a prime motivation of revitalizing the Tanana Chiefs to begin with. We are the village advocate. Thank you.

[The attachments to Mr. Ketzler's statement follow:]

[Attachment 1]

ARTICLES OF INCORPORATION OF DENA' NENA' HENASH—TANANA CHIEFS CONFERENCE

The undersigned, acting as incorporators of a corporation under the Alaska Non-Profit Corporation Act, adopt the following Articles of Incorporation for such corporation:

First: The name of the corporation is Dena' Nena' Henash, and the name of the corporation in the English language is the Tanana Chiefs Conference, Inc.

Second: The period of its duration is perpetual.

Third: The purpose or purposes for which the corporation is organized are:

(a) To secure to the Alaska Native people of the region of the Tanana Chiefs Conference the rights and benefits to which they are entitled under the laws of the United States and the State of Alaska.

(b) To enlighten the public towards a better understanding of the Native People of Alaska.

(c) To preserve the customs, folklore, art and cultural values of the Native-People of the region of the Tanana Chiefs Conference.

(d) To assist in every way possible Doyon, Ltd., in the implementation of the "Alask Native Claims Settlement Act."

(c) To promote the common welfare of the Natives of Alaska and their physical, economic and social well-being.

(f) To foster continued loyalty and allegiance of the Natives of Alaska to the United States and the State of Alaska.

(g) To promote pride on the part of the Natives of Alaska in their heritage and traditions.

(h) To discourage and overcome racial prejudice.

(i) To promote good government.

Fourth: Provisions for the regulation of the internal affairs of the corporation, including provisions for the distribution of assets on dissolution or final liquidation, are:

(a) Membership. Membership in this corporation is limited to Native villages of the region claimed by the Dena' Nena' Henash, being, in general, the Middle Yukon and Upper Yukon drainages, the Koyukuk and Tanana drainages, and the Upper Kuskokwim drainage, and to urban Native groups consisting of Athabascans of one-quarter blood or more, all as more fully defined in the by-laws.

(b) Officers. The principal officers of the corporation are the President, the Vice President, the Secretary, and the Treasurer, who shall be elected in even numbered years for two year terms. They shall be ex-officio members of the Board of Directors.

(c) Directors. Each member village or group shall elect one director. The Board of Directors shall elect five directors to serve with the principal officers as an Executive Committee of the Board of Directors.

(d) By-laws. The Board of Directors shall adopt and may amend the by-laws for the corporation.

(e) Amendments. These articles may be amended in the manner prescribed by law. Written notice of a proposed amendment must be given to the members at least thirty (30) days prior to the membership meeting which acts upon the amendment.

(f) Historic Succession. The corporation is the historic successor to the Tanana Chiefs Conference, the traditional consultive and governing assembly of the Athabascan people of Interior Alaska, from time immemorial, and shall have all the rights, duties, powers, and privileges of this historic assembly.

(g) Dissolution. In the event of dissolution, the net assets of the corporation may be distributed to the members in proportion to their respective memberships, or may be distributed to a successor organization having substantially the same purposes and embracing the interests of substantially the same group of people, or may be distributed to a regional corporation formed incident to the settlement of the Alaska Native Land Claims.

Fifth: The address of the initial registered office of the corporation is P.O. Box 348, Fairbanks, Alaska (street address 527 4th Ave.), and the name of its initial registered agent at such address is Barry W. Jackson.

Sixth: The number of directors constituting the initial Board of Directors of the corporation is twenty-five (25), and the names and addresses of the persons who are to serve as the initial directors are:

Eddie Bergman, Jr., Allakaket.
Thomas Wood, Anvik.
Gideon James, Arctic Village.
Winston James, Birch Creek.
Frank Tobuk, Bettles.
Henry Peters, Cantwell.
Moses Peters, Chalkyitsik.
Allen John, Circle.
Horace Biederman, Eagle.
Andrew Isaac, Dot Lake.
Larry Peterson, Fort Yukon.
Amy Nelson, Galena.
Joe Mailelle, Jr., Grayling.
Susie Williams, Hughes.
Edwin Simon, Huslia.
Walter Andre, Kaltag.
Andrew Dayton, Koyukuk.
Melvin Charlie, Minto.
Jessie Brown, Nenana.
Fred Stickman, Nulato.
Sally Hudson, Rampart.
Hamilton Hamilton, Shageluk.
Gilbert Stevens, Stevens Village.
Donald Joe, Tetlin.
Tim Wallis, Fairbanks.

Seventh: The name and address of each incorporator is:

Alfred R. Ketzler, 102 Lacey Street, Fairbanks.
Ruby John, 102 Lacey Street, Fairbanks.
Tim Wallis, 102 Lacey Street, Fairbanks.

Dated: September 27, 1971.

ALFRED R. KETZLER,
Incorporator.
RUBY JOHN,
Incorporator.
TIM M. WALLIS,
Incorporator.

[Verification]

STATE OF ALASKA,
Fourth Judicial District ss.

I, Anita M. Mowery, a notary public, hereby certify that on the 27th day of September, 1971, personally appeared before me Alfred R. Ketzler, Ruby John, and Tim Wallis who being by me first duly sworn, severally declared that they are the persons who signed the foregoing document as incorporators and that the statements therein contained are true.

ANITA M. MOWREY,
Notary Public for Alaska.

My commission expires September 6, 1974.

CERTIFICATE OF SECRETARY

I, the undersigned, do hereby certify:

(1) that I am the duly elected and acting Secretary of Dena' Nena Henash (Tanana Chiefs Conference), an Alaskan corporation; and,

(2) that the foregoing By-laws, comprising sixteen (16) pages, besides this, constitute the By-laws of said corporation and duly adopted at a meeting of the Board of Directors thereof held on March 15, 1972.

IN WITNESSES WHEREOF, I have hereunto subscribed my name and affixed the seal of said corporation.

LUCY ANN CARLO,
Secretary.

[SEAL]

[Attachment 2]

TANANA CHIEFS CONFERENCE,
Fairbanks, Alaska, March 9, 1973.

Memorandum from: Tim M. Wallis, Organization Committee.

The organization of Tanana Chiefs and Doyon, Ltd. or the splitting of Tanana Chiefs and Doyon, Ltd. comes at a very crucial time. The organization committee and the action taken by the board of directors of Doyon and Tanana Chiefs on this issue could very well be setting the destiny of what is to happen under the land claims settlement act for the geographic region of the Tanana Chiefs Conference. We must look into ways of reorganizing and splitting both Tanana Chiefs and Doyon, Ltd.

First, let's look at Tanana Chiefs. Tanana Chiefs was orginally set up to be the non-profit organization, as we all know, to deal in areas of social services, educational matters and the general up-grading of the standrads of living within the Tanana Chiefs area. This basically should be the main function and actually, the only function of the Tanana Chiefs Conference. We must not get Tanana Chiefs Conference confused with the land claims corporations, which is now presently being done. Doyon, Ltd. on the other hand, is set up as a regional corporation under the land claims bill.

[Attachment 3]

DOYON, INC.

RESOLUTION RELATING TO BIA CONTRACTING OF THE TANANA CHIEFS CONFERENCE PURSUANT TO § 271.18 OF TITLE 25, CODE OF FEDERAL REGULATIONS

Whereas, Doyon, Inc., is the Alaska regional corporation formed pursuant to the provisions of the Alaska Native Claims Settlement Act which represents the Alaska Natives of the Tanana region and, as such, is an Indian tribe as such term is defined in section 4(b) of the Indian Self-Determination Act, and

Whereas the Tanana Chiefs Conference is the regional nonprofit corporation listed in section 7 of the Alaska Native Claims Settlement Act, represents the Alaska Natives of the region, has served for many years as a governing assembly of the Native villages in the region, and was recognized as an Indian tribe for BIA contracting purposes under BIA regulations prior to the implementation of regulations pursuant to the Indian Self-Determination Act, and

Whereas Doyon, Inc., fully supports the efforts of the Alaska Native villages and people of the Tanana region through the Tanana Chiefs Conference to achieve maximum Alaska Native participation in the direction of BIA services in the region and to end the prolonged Federal domination of Indian service programs which has served to retard rather than enhance the progress of the Alaska Natives in the region and has denied them an effective voice in the planning and implementation of programs for their benefit which are responsive to their true needs. Now, therefore, be it

Resolved, That Doyon, Inc., fully endorses the application of the Tanana Chiefs Conference ("TCC") to renew its existing contract with the Bureau of Indian Affairs and to expand its contract program and hereby requests the Bureau of Indian Affairs pursuant to section 102 of Public Law 93–638 and § 271.18 of Title 25, Code of Federal Regulations to approve the contract application of TCC;

Further resolved, That the scope of the contract shall be to carry on all BIA services and programs within the TCC region as described in the TCC contract application provided that each village council in the region shall receive a copy of any contract application or contract amendment affecting services to its village and if, within 30 days after the receipt thereof, the village council provides TCC with a formal resolution objecting to the application or amendment, the application or amendment shall be modified to exclude services to such village.

Further resolved, That the President of TCC be and hereby is authorized and directed to negotiate and execute the contract and any amendments, extensions or renewals or additional contracts for the performance of other Bureau programs covered by Title I of the Indian Self-Determination Act; the Bureau shall send copies of all contract documents and correspondence to him, and he shall file copies of any proposed contract, amendment, renewal, or extension prior to the execution thereof, with the village council of such village affected hereby in order to give an opportunity for objections;

Further resolved, that the authorities granted by this resolution shall remain in effect until this resolution is rescinded;

Further resolved, that the proposed date for contract commencement shall be July 1, 1976 and the contract shall terminate on June 30, 1979, subject to annual renegotiation of the contract budget, or such other dates as shall be negotiated between TCC and BIA;

Further resolved, that Doyon, Inc., hereby requests that the Bureau of Indian Affairs furnish information and technical assistance pursuant to §§ 271.16 and 271.17 of Title 25, Code of Federal Regulations, as may be necessary in the preparation of contract applications pursuant to this resolution;

Further resolved, that Doyon, Inc., hereby authorizes the President of TCC to act in obtaining all necessary information and technical assistance from BIA pursuant to §§ 271.16 and 271.17, negotiating for TCC contract renewal pursuant to § 271.20, prosecuting appeals from BIA decisions relating to TCC contracts under §§ 271.26, 271.82, 271.83 and 271.84, revising or amending a contract under §§ 271.71 and 271.72 and in all other respects to act on matters involving contracts or contract applications of the Tanana Chiefs Conference with the Bureau of Indian Affairs under Part 271, Title 25, Code of Federal Regulations, subject in all such cases to the Board of Directors of the Tanana Chiefs Conference.

[Attachment 4]

TANANA CHIEFS CONFERENCE, INC.

BOARD RESOLUTION 74-19

Whereas the Tanana Chiefs Conference realizes the need for communications in villages, and,

Whereas there have been many experiments, studies, and demonstrations of satellite communications and,

Whereas most villages do not have any reliable communications, and in some instances no communications and,

Whereas the technology is there to provide satellite communications to villages in the Tanana Chiefs Conference region, therefore, be it

Resolved, That the Tanana Chiefs Conference believes the times is past for talking and studying satellite communications and the time has come for action and requests, that the legislative and the state administrations proceed to provide communications to rural Alaska and, be it further

Resolved, That the Tanana Chief's Conference supports legislation in the Alaska legislation to create a Broadcasting Commission with the authority to propose a bond issue to provide ground stations in villages of Alaska.

I hereby certify that the foregoing resolution was duly passed by the Tanana Chiefs Conference, Inc., Board of Directors, at a meeting in Fairbanks, Alaska on the 15th day of March, 1974.

BOARD RESOLUTION 74-10

Whereas the Alaska Department of Highways has published a tentative contract award schedule for 1974 for the new construction and gravel surface of the first thirty-three (33) miles of the Prospect Creek to Kobuk road project in its Five Year Highway Construction Program January, 1974 and,

Whereas the Alaska Department of Highways has produced no Draft Environmental Impact Statement for the project as required by provisions of the National Environmental Policy Act of 1969 for all federal aid highway projects, and.

Whereas, the Alaska Department of Highways has not held the two public hearings clearly outlined in the "Policy and Procedure Memorandum," 20-8, of the U.S. Department of Transportation, Federal Highway Administration, Bureau of Public Roads, which are required of all federal aid highway projects and.

Whereas such federal requirements make mandatory a "Corridor Public Hearing" to be held before the state highway department is committed to a specific proposal and,

Whereas such federal requirements make mandatory a "Highway Design Public Hearing" which is to be held after a route location has been approved, but before the state highway department is committed to a specific design proposal and,

Whereas the Alaska Department of Highways has not produced a statement of need and justification for this project as required and, Whereas the Alaska Department of Highways has not allowed input by the people living in the region of the proposed project, and, in fact has totally ignored their views in its decision making with regard to this project and,

Whereas the Alaska Department of Highways has totally ignored the proper input of the people of the region through the public hearings process as required by the U.S. Federal Highway Administration's "Policy and Procedure Memorandum," 20-8 and therefore, be it

Resolved, That the Tanana Chiefs Conference assembled does request that all route locations and design proposals for any and all portions of the Prospect Creek to Kobuk road project be declared null and void by the Alaska Department of Highways and, be it further

Resolved, That both a "Corridor Public Hearing" and a "Highway Design Public Hearing" be held in accordance with the requirements of the Federal Highway Administration in the villages of Evansville, Allakaket, and Alatna, and that representatives be present at all hearings from the Alaska Department of Highways, the Federal Highway Administration, both Co-Chairmen of the Joint Federal-State Land Use Planning Commission for Alaska, a representative of Doyon, Ltd., and a representative from the Division of Planning and Research of the Office of the Governor.

I hereby certify that the foregoing resolution was duly passed by the Tanana Chiefs Conference, Inc., Board of Directors, at a meeting in Fairbanks, Alaska on the 15th day of March, 1974.

BOARD RESOLUTION 74-14

Whereas in the case known as the Hootch vs State of Alaska, the State Superior Court has found against the plaintiffs. The case is to require the state to place secondary education programs in all villages that have the required number of students and,

Whereas the Association on American Indian Affairs, Inc., has agreed to file an Amicus Curaie or Friend of the Court brief. This brief will cover protection of family and cultural ties and right to have local control in school decisions and;

Whereas education for all secondary students at home is of great importance to the parents of students in the villages and therefore, be it

Resolved, That the Tanana Chiefs Conference endorse the Friend of the Court brief and join with the Association on American Indian Affairs, Inc., in submitting this brief to the Alaska Supreme Court.

I herebby certify that the foregoing resolution was duly passed by the Tanana Chiefs Conference, Inc., Board of Directors, at a meeting in Fairbanks, Alaska on the 15th day of March, 1974.

BOARD RESOLUTION 74-2

Whereas the Tanana Chiefs Regional Health Board is the policy making Health Board for the Tanana Chiefs Health Authority and,

Whereas the Tanana Chiefs Regional Health Board provides direction to the public health service for health care services within the Tanana Service Unit, now therefore, be it

Resolved, That the Board of Directors of the Tanana Chiefs Conference supports the resolutions passed by the Tanana Chiefs Regional Health Board.

I hereby certify that the foregoing resolution was duly passed by the Tanana Chiefs Conference, Inc., Board of Directors, at a meeting in Fairbanks, Alaska on the 15th day of March, 1974.

BOARD RESOLUTION 74-3

Whereas effective communications is essential to the growth and economic standard of the Alaskan Native and,

Whereas Birch Creek residents are not getting the full benefits of the postal service and,

Whereas the number of permanent residents are twenty-five (25) people, therefore, be it.

Resolved, That the Board of Directors of the Tanana Chiefs Conference supports of the resolutions passed by the Birch Creek Council to acquire a fourth (4th) class post office.

I hereby certify that the foregoing resolution was duly passed by the Tanana Chiefs Conference, Inc., Board of Directors, at a meeting in Fairbanks, Alaska on the 15th day of March, 1974.

BOARD RESOLUTION 74–4

Whereas the practice of Unions to call for men on a very limited notice is precluding men from Union jobs that live in rural villages and,

Whereas these jobs are vital to the people living in rural areas as it may be the only source of a cash income and therefore, be it

Resolved, That the Unions be requested to work out a new policy in regard to calling men from rural areas. This policy is to give the men adequate time to report for these jobs and, be it further

Resolved, That when the Tanana Chiefs Conference Sub-regional offices opened that the Unions coordinate their calls through these offices.

I hereby certify that the foregoing resolution was duly passed by the Tanana Chiefs Conference, Inc., Board of Directors, at a meeting in Fairbanks, Alaska on the 15th day of March, 1974.

BOARD RESOLUTION 74–5

Whereas the hiring practices of the Bureau of Land Management Division of Fire Control discriminates against the smaller villages and,

Whereas the methods of advertising for fire fighters is inadequate and does not reach all interested parties in rural areas and therefore, be it

Resolved, by the Tanana Chiefs Conference in convention that the administration negotiate a hiring and advertising policy with the Bureau of Land Management, Division of Fire Control, that will be fair to all villages with fire fighting available.

I hereby certify the foreging resolution was duly passed by the Tanana Chiefs Conference, Inc., Board of Directors, at a meeting in Fairbanks, Alaska on the 15th day of March, 1974.

BOARD RESOLUTION 74–6

Whereas the Dot Lake Village Council has requested the Alaska State Operated School Systems in getting another school building and,

Whereas the Alaska State Operated School Systems has denied our request and,

Whereas the school is not up to the standard fire code and is a fire trap and therefore, be it

Resolved, That the Dot Lake Village Council is requesting the Tanana Chiefs Conference help get another school.

I hereby certify that the foregoing resolution was duly passed by the Tanana Chiefs Conference, Inc., Board of Directors, at a meeting in Fairbanks, Alaska on the 15th day of March, 1974.

BOARD RESOLUTION 74–9

Whereas it is one of the main functions of the Tanana Chiefs Conference to protect the traditional lifestyle of its Native people and,

Whereas the interior region of the Tanana Chiefs Conference north of the Yukon River supports communities who rely very heavily upon the subsistence way of life in order to feed and clothe themselves and their families and,

Whereas the land, rivers and streams and lakes of the northern interior region of the Tanana Chiefs Conference have a relatively low productivity of fish and game and,

Whereas an agreement has been made by the State of Alaska and Alyeska Pipeline Service Company to construct a North Slope road to be built to secondary highway standards and to be made open to the general public as a major state highway after trans-Alaska oil pipeline construction has been completed and,

Whereas no single event will greater influence the future of northern interior Alaska with greater impact than will the opening up of this land with a public access state highway and,

Whereas public vehicle access to this area will create severe conflicts over uses of subsistence resources on either side of the highway for virtually the entire northern region of the Tanana Chiefs Conference, and will vastly increase the pressures on these resources and,

Whereas the policy established by state officials to open this area to public vehicle access was made entirely without regard to the tremendous impact it will create upon the land and the people who live on and from it, and without the input of these people in this policy making decision and therefore, be it

Resolved, That the Tanana Chiefs Conference assembly urgently requests that the decision to make the Yukon River Bridge and North Slope road conform to second class highway standards and open to public use be reversed, and that the entire question of public use of this corridor be very carefully reviewed by a select committee to include representation from the Tanana Chiefs Conference, Doyon, Limited, the rural villages from the general area of the pipeline corridor, other private citizen groups, the Alaska Department of Fish and Game, United States Bureau of Sport Fisheries and Wildlife, National Park Service, Joint Federal-State Land Use Planning Commission and other appropriate Native regional and village entities and other appropriate parties, with the study to culminate in a series of public hearings in the villages which would be most closely affected.

I hereby certify that the foregoing resolution was duly passed by the Tanana Chiefs Conference, Inc., Board of Directors, at a meeting in Fairbanks, Alaska on the 15th day of March, 1974.

FLORA BERGMAN,
Secretary.

[Attachment 5]

ALASKA AMENDMENT TO SECTION 4 OF THE INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT

(b) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act or any Alaska Native regional nonprofit organization identified in section 7(a) of that Act.

(c) "Tribal organization" means the recognized governing body of any Indian tribe, any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: *Provided*, that in any case where a contract is let or grant made to any organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be prerequisite to the letting or making of such contract or grant except that a contract or grant may be let or made to an Alaska Native regional nonprofit organization identified in section 7(a) of the Alaska Native Claims Settlement Act to serve the Alaska Native villages in its region in the absence of objection from the Alaska Native villages to be served, which shall receive 30 days notice of the contract or grant.

STATEMENT OF TOM RICHARDS, DIRECTOR, NATIVE SERVICE, TANANA CHIEFS CONFERENCE

Mr. RICHARDS. My name is Tom Richards. I'm employed by the Tanana Chiefs Conference as the contract manager for the contract which the Tanana Chiefs Conference entered into with the Bureau of Indian Affairs on October 15, 1975, to provide for many of the Bureau's services which were formally provided by the Fairbanks agency.

I don't have any written remarks to present to you today, but I would like to thank Senator Stevens, Senator Gravel, Commissioner Borbridge, Mr. Strong of Senator Abourezk's office for the response in which both the Commission and the committee has rapidly provided for the hearings here.

We're very grateful that you do appreciate the urgency of the situation. I don't have any written remarks with me today because I've been busy since July 26, traveling to the member villages for the Tanana Chiefs Conference to explain to them their options to Public Law 93-638. This has grown out of a problem that we've had in trying to renegotiate a contract. The third contract that Al Ketzler mentioned, was negotiated under the Snyder Act in trying to negotiate a renewal of the existing contract and an expansion of the contract programs. Under Public Law 93-638, we've been advised by the BIA in the Juneau area office that due to the definitions of what it provides in Alaska. The TCC has acquired to obtain resolutions from each member village endorsing the contract application in order for us to receive a new contract. We were advised of this shortly after the TCC submitted a letter of intent in January of this year to recontract to the extent of contract programs. At that time, the area director indicated to the TCC that it would be a simple matter for the TCC to write to each member of the village council of the organization and have them review the legislation, which had been at that time, recently enacted by Congress, the Self-Determination Act and have them adopt a resolution in support for the organization.

We tried to explain to the Bureau at that time that no village will deal with anyone on serious matters as to how they will receive their services, by signing the resolution at the request of anything that they receive in the mail. So, the BIA then offered to pay for a project for the Tanana Chiefs by which they will travel to each member village and meet with each village council, and then obtain these resolutions. Again, we felt that the TCC based upon the manner in which the BIA has traditionally dealt with Alaska Native regions, should be considered as a tribe for the purposes of contracting. And, that the Congress, as it created the 12 regions by the Alaska Native Claims Settlement Act of 1971, had recognized the regional concept which Alaska Native people have chosen to develop themselves as their own political structures. And, based upon what we felt was the intent of Congress and what we felt was the Bureau's past administrative history in dealing with Alaska Native organizations on a contractural basis with the Tanana Chiefs Conference, it should be recognized as a tribe for the purposes of contracting.

The area director felt uncomfortable in making this determination and ruled against us. We, at that time, appealed of the determination by the area director that the Tanana Chiefs Conference was not a tribe, to the Commissioner's office in Washington. We have since met with representatives of Commissioner Thompson and representatives of committees on Indian Affairs, both in the Senate and the House and Representatives of the Indian Policy Review Commission. And, we've been very appreciative of all of the interest to the problem and everybody's support in trying to achieve the rapid resolution by the public status issues.

It seemed to us in meeting with Members of the Congress and the Bureau of Indian Affairs and other principles within the area of Indian Affairs, just about everybody except the Bureau of Indian Affairs was in agreement for the purposes of contracting BIA and

CHF services in Alaska. Alaska Native regional nonprofit corporations should be considered as tribes. It's only been the BIA that we've had any problem with upon doing this.

But in the end, we did agree to travel to each of our member villages to hold a series of village informational meetings, this is being done without any prejudice to the position of the Tanana Chiefs Conference, that we are a tribe. We're doing this simply to hold a series of village informational meetings with each of the counsels and to explain Public Law 93-638, the regulations and some of the options that are available to villages as a result of this law. This is rather difficult and as I mentioned earlier, the Bureau of Indian Affairs have indicated to us that in order for us to renew our contract by September 30 by this past June 30 under Public Law 93-638, we needed a resolution from each village.

In order for each village to fully understand what they're acting upon, we tried as best as we could, explain the provisions of Public Law 93-638. On July 26, the Tanana Chiefs Conference hired a Public Law 93-638 coordinator, Sam Demientieff. And Sam and I attended a Sterling Institute course to try to understand more about the provisions of Public Law 93-638 prior to traveling to the villages. We attended this course for 1 week in Anchorage and left with many questions concerning the provisions of Public Law 93-638, but we then began to embark on a program by which we meet with each village council and try to explain the provisions.

We're trying to do this before September 30, in order that we can proceed with our new contract. And, in going to each of our village councils, our member village councils, we take a copy of the act as it was passed by Congress and make reference to this section here of 15 pages on Indian Self Determination and Education and Assistance Act of 1975. We also carry the regulations fully formulated by the Secretary of the Interior, which is this section here. We carry the handbook for decisionmakers prepared by the Bureau of Indian Affairs, which is this section here. We carry the procedural guidelines for implementing——

Senator GRAVEL. Excuse me, Tom, you carry all the authority to make yourself wanted and needed when you travel?

Mr. RICHARDS. We try to explain as best we can, the provisions of the act, and we have to refer to everything we've got here. The point I'm trying to make is that Congress intended to turn over the control of programs of certain Native people and American Indians to the management of Native people themselves, and they did this in a 15 piece document. And, here we've got this book of procedural guidelines with reference materials and regulations and decisionmakers handbook that the BIA has prepared to simplify the matter for us, and it's 4 inches thick.

On top of that, we've received some materials from the Sterling Institute people to take to our villages and to explain this very simple matter of decisionmaking under the Self-Determination Act. So, we have an initiation and performance guide for Indian tribes to take to the villages. And, here we're trying to visit and meet with 43 village councils within a period of about 2 months. And, because of weather and travel problems, generally we end up being able to spend 2 or 3 hours with the village council. We take all these materials to them and explain to them that under the BIA's interpretation of the way the act should be implemented, they have all these options for them to continue contracting to the Tanana Chiefs Conference or whether to receive their services directly from the BIA or whether to contract directly themselves for the performance of their services.

We've got these flow charts that the Sterling Institute people provided for us to advise the villages of how they can receive their grants.

I don't think this is fair. I don't think what we're doing is fair. We take all this material to the villages and we show them what they can do and what they can't do, all their options, and they're scared all to hell and they say, "you guys take care of it," and that's the end result of each of these meetings that we have with each village council, to try to tell the village councils what their options are, what their rights are of Public Law 93-638. And, the BIA, in taking the simple idea of having Native people manage BIA and Native Health Services for their own people, have complicated the situation to such an extent that the people of the villages are too terrified to even look at the whole mess.

I think the manner in which we're trying to receive a new contract is the indication of the Federal problems that we've always had with the Bureau of Indian Affairs in the Juneau area office in trying to administratively provide for Native control of these services. The history of the contract itself that we now have is very indicative, I think, of the negativism that the Bureau has always manifested, and the distrust of Native people that the BIA has always had. This is carried on through our Snyder Act contract, and in trying to perform the services under our current contract, the support, the reaction of the Bureau of Indian Affairs has been negative and distrustful of us. The Bureau has always been more restrictive on a Native contractor then it has probably with some people delivering services. I would like to point out of a couple of examples that very clearly points this out in this past year.

One of the programs we've contracted for is the social services program in which we provide general assistance, child welfare, burial assistance to eligible Alaska Natives residing in the Tanana Chiefs region. In staffing for our social services program, we hired people who we felt knew the region, knew the villages, knew the problems and knew the people. I think they've done very well in staffing the social services program.

We hesitated for a month after we signed the rest of the contract on signing the social services portion because BIA didn't want to provide for the tribal situation in total, and the United Crow Band continuing their contract because at that time the BIA did recognize them as a tribe. We held off and we said—

> No, you're not a Crow Band. If they want the contract directly themselves, they should have that option.

So, we refused to sign for a month until they gave in there.

We had the same situation last year with the Fairbanks Native Association, the BIA did recognize FNA and the Tanana Chiefs said—

> If they have a contract and if they're able to manage a contract and deliver services, we'll acknowledge that.

So we refused to sign until FNA was provided for. And we refused to sign our social services portion of our contract for a month because the Bureau required that to implement the contract, that the TCC hire a person with a master's degree in social services and 2 years postgraduate experience, and we couldn't find anybody with a master's degree in social services with 2 years postgraduate experience who had a familiarity with people and the problems in the region. We found people like Hannah Sullivan, about 70, who has spent all her life dealing with social problems in the villages. We hired her in our Fort Yukon subregion of Tanana Chiefs. And, we hired a supervisor assistant, Carol Drake, who had extensive experience in dealing with social problems in Fairbanks itself, and for the Nome region. We hired people we felt were qualified and we went ahead and finally signed the contract with these provisions because the—with these provisions because the BIA was not providing the service during the period in which we were negotiating the social services portion of the contract.

Several months into the contract we were served with a notice of noncompliance because the Tanana Chiefs Conference did not have a person with a master's degree in social work with 2 years postgraduate experience to implement the social services provision of the contract. Now, we appealed this to the Commissioner. Well, initially we did not appeal this, I went to the area director and said that we should sit down and try to resolve this in some way and reach an agreement to provide the service. The area director and I met almost every 2 weeks, I flew to Juneau almost every other week to try to negotiate an agreement to this, for 5 months. And, initially he said, "No, that's nonnegotiable," and he said, "well, we can talk about it." We talked about it for 5 months. After 5 months was over he said, "no, that's not negotiable." So, he served us with a letter of noncompliance.

When I went out to Washington to meet with the Commissioner of Staff, Mr. Ketzler was with me, Carol Drake was with me. What I had proposed initially to resolve the situation, was that the Tanana Chiefs Conference would accept somebody who was here presently or could be located to be employed at the Fairbanks agency, a regular BIA employee who had a master's degree in social work plus 2 years of postgraduate experience to service us as a contractor on a consulting basis. They didn't want anybody directly employed by us who had these qualifications because we had people that we felt needed—we had all the people we felt we needed to staff the program, but this was not acceptable to the area director.

When we went to Washington, we met with Mr. Ray Butler, of the Division of Family Services of Commissioner Thompson's staff, trying to resolve this issue. And, the first thing after 5 months, or 6 months of nonproductive negotiations with the area director, the first thing that the Commissioner's representative said in Washington was, "why don't you upset the compromise? Why don't you let somebody with an MSW plus 2 years of postgraduate experience be available to the program on a consulting basis?" I sat there and shook my head and I said, "I don't know. We've been working pretty hard to resolve this." So, that's what we suggested in the first place. And, we had to go back to Washington to get the area officer to come.

The question of personnel standards, the Bureau has been very restrictive on. Another area has been the credit program, and last year when the credit program was managed by the Bureau of Indian Affairs itself, and the BIA waited until the last minute to take all the funds that were appropriated by Congress and we had to finance ourselves. [inaudible] and we waited until the last 6 weeks of the fiscal year to obligate these funds and to approve loan applications or business grant applications throughout the Alaska Native businesses, and as we made the contract we tried to work all throughout the year of the contract in developing applications for business grants for Native people to receive business grants to start a business. The BIA then became more restrictive upon us as a Native contractor than it was upon itself. So, it became a rule that we can't service somebody in Fairbanks or Juneau or Anchorage or Kodiak because they're urban areas. We can't serve anybody in urban areas.

We're still having a very difficult time fiscally through cash flow problems in this program or these contracts because the BIA has a separate rule of contracts, a separate system with dealing with Native groups when it comes to contractural situations.

When Sam Demientieff and I attended the Sterling Institute program in Anchorage, we were explaining our problem with cost reimbursable contracts. The Sterling Institute people who have a contract with the BIA to talk about 638, said it was too bad that we don't have a fixed fee contract like us with the BIA to explain 638, but the BIA won't deal on a fixed fee contract with the Native group. Any other eligible corporation that does business with the Government is usually entitled to do business from a fixed fee basis in receiving a management fee, and on top of that, receiving some indirect costs on allocations. The Government does allow this for just about anybody else, any other contractor that does business with the Government, but the BIA does not trust Native contractors, Native corporations, they will say, "We can only deal with you on a cost fee reimbursable basis." That means that we collect receipts on everything we spend and then we take them back to BIA and the BIA will pay us. It's improved a little bit because we have a letter of credit situation now where we draw the money in advance, but we still operate on a cost-reimbursable basis.

Senator GRAVEL. Do they give you a fee above the cost of operations?

Mr. RICHARDS. We've been trying to receive an indirect cost rate from the Interior Department since we received the contract. We did not have an established indirect cost rate, although we are expending indirect costs items at this time. We have items for rent, electricity——

Senator GRAVEL. And, that's not reimbursable at this point?

Mr. RICHARDS. Some is, some isn't, it depends on the auditors. The auditors come in and they collect audit exceptions. My travel to Washington, D.C., to appeal the area directors decisions was not an allowable item. It was an audit exception because it shouldn't have been charged against my administrative budget. That is the BIA's interpretation. So, we have to dig up that money from somewhere. We're losing money on this contract and it's because—you have to be a perfect manager, I'm not a perfect manager, you have to be absolutely perfect in order to expend every item correctly and then be reimbursed by the Government for your expenditures. Like I say, the BIA and the Interior Department is being more restrictive upon its contractors than it ever was upon itself. They get an evaluation maybe once every 10 years and nobody ever sees the thing, but they come through with us and audit us twice a year and evaluate us and it costs us money. We have, at this time, $23,000 in outstanding audit exceptions we have to justify, primary travel because the BIA won't accept our travel and per diem rates as being allowable rates. The BIA won't accept my trips to Washington to complain about the BIA as allowable expenditures. So, we have here a tool of the Interior Department and the BIA that's used pretty much as a club on Native contractors. They don't like the way you operate, they'll be more restrictive on you. We had a full audit 5 months into our contract without notice, a complete audit of every expenditure. The contract didn't provide for this until the end of the contract term, but we had it anyway. That's how these audit exceptions were provided. When you have a cost reimbursable contract and the BIA doesn't like the way you're spending their money, they'll come in and have their auditors declare audit exceptions, and then you lose thousands and thousands of dollars operating these programs.

Senator GRAVEL. Where are you going to get that money?

Mr. RICHARDS. We don't know. That's the situation, we're losing money on the deal, and I'm sure all of the other Native contractors are losing money. When you're operating a nonprofit organization, you have to be careful about these things and it's very difficult unless, like I say, you're a perfect manager. I can't guarantee that every decision I make as to every dollar I'm going to obligate is a correct one. I can't guarantee that my social services people are my assistance people, when they spend money on a client, can make sure that the client uses those dollars properly. Those are things that come up in audit exceptions. But the BIA would prefer for us to do or the auditors, when they came up and saw the way we were handling our disbursements for general assistance clients or the BIA welfare clients or the employment assistance clients, they were amazed that we were sitting there and writing them checks because we would sit down and interview the clients, determine their eligibility, determine their needs and come up with the calculation of how much they're entitled to receive in dollars service wise, so we make out the checks to the clients.

They said,

> How come you don't give the clients a purchase order and write down, two pairs of boots, three pairs of undershirts and whatever, you know, and have them take it to the store?

We don't, you know, that went out 20 years ago. We honestly feel that the BIA is being more restrictive on us than it ever was upon itself. Now, we don't handle checks to our clients and have them go down and buy a pair of shoes. It's not good business, anyway we couldn't keep track of 30,000 purchase order books for our clients. We write our checks to clients just like the way the BIA did it, but these turn up in audit exceptions.

The big problem here is having to do business on a cost reimbursable basis. Anybody else that does business with the Government, I don't think is treated this way, but the BIA when it works with Native contractors, insists that the only way—I think Indian Health Service also has this attitude, the only way that they can deal with a contract with a Native group is to deal on a cost reimbursable basis, and unless you have perfect management, there is no way in which you're going to—you lose money at best, or break even at best if you have excellent management or perfect management, which I consider more than excellent management.

The way we prefer to do business in managing these contracts is to negotiate a fixed fee contract for what we believe—for an amount we believe can provide a service and the BIA believes we can provide a service, and on top of that, at a management fee to take care of—well, for a management and on top of that, indirect costs for overhead, administrative overhead. I think anybody else that does business with the Government, any other branch of Government is able to convince that agency that it's a reasonable contracting situation when it's approached this way, but when we do it, the BIA just doesn't trust us, so it all has to be cost reimbursable, we keep the receipts and we can never have a negotiated fixed fee contract, which I don't believe is correct. I think it's discriminatory when you're saying that you don't trust a Native contractor, but anybody else that has a contract with the Government can contract on a fixed fee basis.

I think that part of the regulations and handbook and procedural guidelines, everything that's being promulgated right now, just makes it very difficult for the law to be implemented as it was intended. I think the simple intent was to allow for Native people to provide or take over the management of the services which provide service—programs which provide services to Native people, I don't think it's being done that way.

I don't know what we have to do about this situation, we have problems not only at this point with the contract, [inaudible] to provide this information to our villages. If we sign the contract, we send it to Juneau [inaudible] we never receive a signed contract back from the BIA. Sam Demientieff was traveling on his own money when he travels to villages and meets with the village councils. I call the area director every week and he says, "it's on its way, we sent it in the mail yesterday." It's just been a very clear situation, I don't think we get the support from the BIA that we deserve in trying to manage these programs and in trying to implement the intent of this act to the contract that we have to meet with the villages.

We've had other contracts, we've had a contract with a partnership called Alaska Native Resources to evaluate our programs. We haven't been able to pay them because the BIA hasn't sent us a signed copy of the contract. We can pay them, sure, but we have no assurance that we're going to get reimbursed unless we have a signed contract from the Bureau. We get very poor service from the BIA, extremely poor service from the Juneau area office.

In our credit program we've only had one, at the least two people implementing our credit program, and the Indian Finance is a very technical, a very complicated piece of legislation. And, the regulations that were promulgated so they would provide for the implementation of the Indian Finance Act, made it even more complicated. Eligible

Alaskan Native businessmen seeking assistance are also complicated, so we would have to call upon the Juneau area office and its credit staff to provide us with technical assistance, come on up to Fairbanks, or come on up to one of our member villages and assist an applicant with doing cash flow projections, doing analysis or possible investments, but we don't have all the resources to do this completely with the dollars that we have for the contract. We're supposed to receive technical assistance from the Juneau area office for this and we never get it. We call AFN technical assistance and they'll send teams of accountants up to assist us in developing these applications, where the BIA doesn't.

I don't believe that we're getting all the technical support from the area office in support of our existing contract, and I think this whole situation where we're taking your time and our time to try to resolve or establish problems that come about with the area Director, with the Deputy Commissioner, where he said, "Well, it seems to be that you sent Congress a bill that" [inaudible due to static in recording equipment]. The BIA sat down and said, "Well, we've looked at the legislation, we've looked at what we believe the intent of Congress is, we looked at our own administrative history in dealing with Native groups, and this is the way that the Self-Determination Act should be implemented in Alaska and this is the way that we'll do it." But instead they've taken, again, the most restrictive approach in trying to implement the act. So——

Senator STEVENS. Tom, you should have been with us the last 2 days. I don't think we've found a unanimous position yet that a regional [inaudible] already recognized automatically, but [inaudible] how to make that determination. I think you'll agree with that, won't you?

Senator GRAVEL. Yes.

Senator STEVENS. It's the most difficult thing to try to impose the desire of one region on another.

Mr. RICHARDS. Well, that's what self-determination is, each region is different. The Tlingit Haida has a slightly different opinion of what Tlingit Haida is than AVCP does or what AVCP is, and what Tanana Chiefs does and what Tanana Chiefs is. But I think there are ways for providing for this, by looking—like I said, by looking at the intent of Congress and the administrative history of dealing with contracting situations rather than to take the most restrictive approach and say that AFN, when AFN wants the contract for an investment development program, but AFN needs 225 resolutions in order to contract. I think there is some latitude for interpreting the law, some flexibility in reading the regulations to provide for, I think, what most people feel is the most reasonable means of implementing the law. I don't think that's being done.

Our partial response has been to talk with Members of Congress, with the Policy Review Commission, and with the Commissioner's office in trying to seek a resolution to this. We try to do this administratively. Response has been poor to the Bureau. We do have one final hope of receiving an administrative solution; the Commissioner had sent Mr. Butler to Alaska last month to meet with Tlingit Haida and Cook Inlet and ourselves to discuss the tribal status problems. His recommendations should be to the Commissioner today, hopefully within the next week or so we'll have an opinion from Commissioner Thompson as to whether the Tanana Chiefs Conference can be recognized as a tribe for purpose of contracting. That's the only administrative relief, I think, we might have in sight for this.

Based upon our experiences in dealing with BIA and the problems we've had in receiving technical assistance and the problems in trying to get a [inaudible], one of our resolutions, we're carrying all sorts of resolutions to the villages these days, the BIA recontracting, Johnson-O'Malley, section 104, self-determination grants. Another one we carry to the villages is one for AFN to allow AFN to pursue a contract to operate from the Juneau area office, exclusive of those that can be specifically identified as trust functions. The BIA said that we can probably contract the area office if we have every village sign up, it might take years and it might never be done, but the Tanana Chiefs Conference started to do it. The Cook Inlet Region—The Cook Inlet Native Association started to do it, to [inaudible due to static in recording equipment].

I would also like to comment a little bit on what Mr. Ketzler had mentioned concerning the BIA's role or self image as protector of the villages. I did notice in the area director's testimony that he has indicated to you that he's interpreted the regulations in such a fashion as to protect the tribal status of the Alaska Native villages. One question which comes to my mind in considering that remark, is to wonder why, when the Native regional corporations are just on the verge, some of us have contracts, some of us don't, according to the BIA [inaudible] why doesn't this question come up in the mind of the BIA, that it exists to protect the villages, it has never done this historically. The reason that the regional nonprofit associations were developed, were to fight for the services we now provide to the villages because the BIA wasn't doing it. I think that the mention by the BIA that to protect its situation on behalf of the villages, there's more of a diversion tactic to delay implementation of self-determination policies and contracting policies. I think we were just close to obtaining some large degree of self-determination with the old act, we used the old act to beat the Snyder Act to death and getting our contract now. We were just about on the verge of controlling the delivery systems in the regions, have them under Native control when 638 came along, and now the BIA is using it as an excuse to delay self-determination. It's an embarrassment, I believe, to the Bureau. I think it will be an embarrassment to the Bureau. I think it's very poor interpretation of the administration's policies in trying to provide for self-determination. I think it subverts the intent of the Self-Determination Act, and I believe it's contrary to what was intended by the administration and by other Members of Congress, by the committees supporting this piece of legislation.

I was at a meeting Thursday night and one village, very far down river, in which the members of the village council were for a time, very critical of the Tanana Chiefs Conference; "The Tanana Chiefs Conference doesn't do anything for us, they never come out and visit us, they never say hello, they never write to us, the Tanana Chiefs Conference is terrible, those guys are really bad," and then I presented them with this resolution allowing us to recontract for these programs and pick up new programs. And, then they say, "Well, what happens if we don't sign the resolution?" And, I said, "Well, if you don't sign the resolution and we pick up all of these contracts, and there's no more Fairbanks agency, you'll probably get your services from the BIA in Bethel or the BIA in Anchorage or the BIA in Nome, or you can try on your own as a village to go after a contract to provide services for yourself." And, after all the 2 hours or so in talking about the Tanana Chiefs and what they weren't doing for them, they unanimously adopted a resolution to authorize Tanana Chiefs to serve the contract.

This has been the same in all of the villages. There are one or two villages actually, on the main resolution—main issue of renewing our contract that haven't indicated which way they're going to go. I'm confident that the Tanana Chiefs Conference will receive the support of every village and region in getting a new contract. I don't know whether we'll do this by September 30 as the BIA is requiring, but I think it will be done. I'm very confident that it will be done. I think that indicates something, the support that the village people have for the regional concept.

The policy organization itself, and we've been very careful, in fact we've invited the BIA to travel with us when we talk with the people about their rights under Public Law 93-638, we talk to them about the law and we talk to them about the Tanana Chiefs Conference policy, that it doesn't want to provide services to a village that doesn't want services provided by the Tanana Chiefs. And, every village that we've talked with has been very supportive. I think every village that we've been to has unanimously adopted that resolution to authorize us to renew our contract and to provide additional services.

I would like to encourage both the committee and commission to be very careful in listening to the Bureau of Indian Affairs interpretation of the regulations, and not to allow the interpretation to interfere with the manner in which Alaska Native people and Alaska Native groups have chosen to organize themselves in structures which we've worked very hard to develop over the last 20 years. I honestly believe that there's an effort to subvert this structure because these regions have been the only manner in which we've been able to do anything for Native people in terms of insisting that the BIA provide these services, the Indian Health Service, there's been no advocate. And, I think that now we do have the regions advocates on behalf of villages on behalf of the people, that any attempt of the BIA to provide for any other situations, would be to subvert or interfere internally with the manner in which the Native people have chosen to organize themselves. I don't think it's a healthy situation. We think it's just another diversion to delay the implementation of what Congress has intended, or what the administration has intended, what the Native people themselves want. I think everybody except the BIA is in agreement on the way in which we should be able to implement the Self-Determination Act.

I think we're entering into a situation where the BIA says it's protecting the villages, it's really protecting itself. Take for instance the Indian Preference Act, it was supposed to turn over the whole structure of the BIA to the control of the American Indian people and Native people, so BIA went full guns on Indian preference, and now our top leaders are Indians and Alaskan Natives, they're just as much bureaucrats as the non-Natives were before we had Alaska Natives in the structure. It's the BIA's structures, it's the bureaucratic structure itself that subverts the Native control. I don't think Indian preference has worked. And, now we have a new policy, a contracting policy and I think it's shown some benefit and it shows, I think, that we can have a situation which Native people can control the service delivery systems by which they receive their services. And, now that's proving to be effective, the BIA is looking for means of trying to subvert the intent and implementation of this act.

I would again reiterate, that I would like to encourage the commission, encourage the committees to be very careful in listening to the Bureau of Indian Affairs in its interpretation of how it should deal with Native groups and Native political structures. We never used to talk about tribes, I feel uncomfortable every time I go to a village and say, "How's your tribe doing?" They don't talk that way. We've got our own structures. Alaska is different and it wasn't adequately provided for and there is a need for remodification of the definition portion of the act. I think there's enough administrative history, enough legislative history to allow the act to be implemented right now rather than to wait until a definition is provided. There is a need for a definition and for it to provide more clarity, but I think there's enough legislative history, there's enough indication for the intent of Congress to come up with the administrative history in the manner in which BIA has dealt with Native people, that we can go ahead now and have some leadership within the Bureau of Indian Affairs to say, "Yes; this was what was intended and we will do it this way," but there isn't. It's been used as a diversion, as a tactic to delay the implementation that Congress intended and what Native people want.

Those are my oral remarks and they're probably about three times as long as the written testimony that I'll provide for you. I will provide written testimony at a later date. [Not received.]

Senator GRAVEL. Thank you very much.

Senator STEVENS. I would hate to see you when you are really prepared. [Laughter.] Let me ask you just one question, I know we're in a hurry, but the AVCP people testified this morning that even if the resolution was not required, they do it anyway. It does not require for you to do it anyway?

Mr. RICHARDS. Senator, this is something that they've chosen for themselves. Harold Napolian was in Fairbanks several weeks ago and Mr. Butler was here, and the area director was here, and explained that he was going to the villages and having received 39 resolutions from each of the villages and BIA comes along and says, "Wait a minute, they're second class cities and they're no good." He's been doing this for 2 years. He spent $80,000 of AVCP's money doing this in order for them to get a contract, and then the BIA jumps in and says, "Well, second class cities aren't recognized. We can't deal with them." That's one problem that he's had, but the area director——

Senator STEVENS. He straightened that out.

Mr. RICHARDS. OK. The area director began to say, "Well, it looks like you're proceeding with what we want," and then Harold made it very clear that the reason they're doing it is because it's been a policy determination of the AVCP itself that they don't want to provide the services unless each village says it, not because the regulations read that way and not because the BIA has to be that way, because that's the way AVCP wants to proceed in a contracting situation. They want to get a resolution from each village. They're not doing it to——

Senator STEVENS. Have you made a policy determination for Tanana Chiefs Conference?

Mr. KETZLER. No; we haven't. Through our proposed definition changes in the act, is that we would have the—the villages would have the opportunity to decline.

Senator STEVENS. To opt out; yes.

Mr. KETZLER. To opt out rather than—we want to go to the villages and meet with them, but to have to do it every year, we feel it's a, you know, it's very costly and time consuming, we could put that money into other services. Like Tom says, the AVCP people want to do it on their own, that's fine. We have no policy that we have to.

Senator STEVENS. Thank you.

Senator GRAVEL. Did you have any questions?

Commissioner BORBRIDGE. Yes. I certainly appreciate your detailed recounting of your experience within contracting. Having previously gone through some similar experiences, I'm somewhat familiar with them.

Mr. RICHARDS. In March of this year, the Tanana Chiefs Conference, the Tlingit Haida Central Council and the Cook Inlet Native Association called upon the regions currently receiving contracts to operate BIA services and regions that were seeking contracts, to meet together and to discuss some common problems. So, we have met a couple of times with the other regions to discuss the problems that we've had with the Bureau of Indian Affairs, and we are—we organized a Contract Managers Association similar to the AFN's [inaudible] Managers, to discuss the problems that we've encountered in managing the BIA contracts. And, it's now recognized as a subcommittee of the AFN Human Resources Committee, and we provide an input for policy decisions by the Human Resources Committee. We've had a very difficult time in trying to receive input in [inaudible due to static in recording equipment] we've finally received the concurrence of the area director, the agreement of the area director that the Tanana Chiefs Conference and the Native regional contractors can fit in on what are called superintendent meetings, the area director and his immediate staff and the superintendents within Alaska would get together periodically. They used to get together once a month to discuss the way in which the Bureau provides services for Alaska Natives, and we frequently make policy determinations during these meetings.

Since we received agreement from the area director last September, that we will be allowed to sit in on the superintendent's meetings, he has not held one superintendent meeting. I don't know how he makes his policy determinations now. I think he makes them for himself. There used to be regular scheduled meetings of the superintendents of the Nome agency, Fairbanks agency, Anchorage agency, Bethel, and Juneau, but since the Native contractors have—we fought very hard and received assurance from the area director that we would be included in all the superintendent's meetings, since we've received that assurance, he's pretty much abolished the meetings.

Senator STEVENS. He's here now. Clay, why?

Mr. ANTIOQUIA. A couple of things, Senator, one is, we did have, in fact, representatives and contractors in at least one meeting, but in the past few months, the last 3 months of the fiscal year and during the transitional quarter, we've been under severe travel restrictions and it's just not been one of the high priorities as far as travel is concerned. So, we've cut them off for awhile.

Senator STEVENS. After the transitional quarter is over, do you intend a renewal?

Mr. ANTIOQUIA. Hopefully if we get—depending on what our 1977 budget looks like, but we plan on getting back together again; yes.

Mr. RICHARDS. Well, it's been since December that we've had one. I think the travel freeze was imposed in April or May, I believe, there was a lapse of time there in which the contractors and the superintendents weren't consulted on any of these areawide decisionmaking.

Senator STEVENS. Thank you very much.

Commissioner BORBRIDGE. Mr. Chairman, it just seems to me that this whole matter of audit exceptions, the kind of ongoing technical functions fulfilled by the Bureau during the time that the Native organizations are contracting are extremely important because—the concern I have is that it would be very easy either for the Bureau or some other agency to determine that the whole matter of contracting isn't doable or feasible, and that we've had this exception, there are overruns or audit exceptions and I think it would be very useful for our records, Mr. Chairman, if we were to be advised as to what the ultimate outcome of the audit exception and just how it is anticipated and what this position has actually made in terms of who pays for the $23,000 or so.

Mr. RICHARDS. Our entire travel category is an audit exception. All of our travel. Every dollar we spend on travel is considered an audit exception.

Commissioner BORBRIDGE. And, you have how many villages in the Tanana——

Mr. RICHARDS. Forty-three villages.

Commissioner BORBRIDGE. Forty-three.

Mr. RICHARDS. Well, it's the largest geographical region. It's the second largest in terms of villages. AVCP, you know, has 56. Tanana Chiefs has 43, but we've got—our furthest out village is Holy Cross on one end, and up north we have Arctic village at the other end, and down to Tetlin, up to Hughes, Alkakit—(ph)—and Lotna, it's a very large region which encompasses the Yukon River, upper and middle Yukon, upper Tanana and middle Tanana.

Senator STEVENS. In 1960, I sat down with Howard Rock and figured out that it would cost $400,000 for transportation and salary to have consultation with each village in the State within 1 year. Now, the price has got to have gone up since then, but that was at the time they were starting these land claims and we wanted to have a series of meetings in each place.

Mr. RICHARDS. How about the HEW?

Mr. KETZLER. Well, to go a little bit further on some of the problems in contracting; we just got a call yesterday by a gentleman named Mr. Peterson, who is the contracting officer for the Public Health Service in Alaska, and we had a meeting previously and I asked the question; what kind of contracting can we contract under, cost reibursable or fixed fee or what, if I recall, I'm not sure, but they thought they could go cost reimbursable with a fee, management fee. And, I said that would be acceptable because we had not in the past experienced any contract that's cost reimbursable where we could make it without an audit exception. So, they were going to make a determination. We got a call yesterday and they said that contracts will be cost reimbursable and there will be no fee, so what they're effectively saying is that, you know, they're going to run us out of business because we are going to go bankrupt.

Senator **STEVENS**. How many entities, Clay, are you contracting with now? How many different contracts do you have in the State?

Mr. **ANTIOQUIA**. In the self-determination type contract, Senator, we have 92, that is of last year, that's 1976.

Senator **STEVENS**. Is that individual entities or is there some overlapping?

Mr. **ANTIOQUIA**. No; these are individual entities.

Senator **STEVENS**. How much would it cost to have a meeting of those people with your staff? A statewide meeting to hammer some of these things out and eliminate some of these problems?

Mr. **ANTIOQUIA**. Well, I would just be guessing, but generally when we try to do something like that [inaudible due to static].

Mr. **KETZLER**. [Inaudible.]

Senator **STEVENS**. So, you'll be having another trip to Washington soon?

Mr. **KETZLER**. I see many of them.

Senator **GRAVEL**. OK. If there are no further questions, we'll go to Steve Matthew. Mr. Matthew.

STATEMENT OF STEVE MATTHEW, VILLAGE LIAISON OFFICER, HEALTH AUTHORITY, TANANA CHIEFS CONFERENCE

Mr. **MATTHEW**. Senator Stevens, Senator Gravel, Commissioner Borbridge, Mr. Strong, ladies, and gentlemen, my name is Steve Matthew, I am the village liaison officer of the Tanana Chiefs Health Authority, and due to prior commitments, Mr. Dan Slaby has asked me to give a statement on his behalf.

I would like to speak on behalf of the hope that the intentions of self-determination will be implemented through contractual relationships with the Federal Government.

I assume that the purpose of developing the social welfare and health of our people, the Federal Government chooses to contract with our organization primarily for two reasons: (1) Our people can more directly participate in decisionmaking and policy formation over Federal funds through our tribal organization, hopefully increasing the satisfaction for services delivered; (2) utilization of the tribal organization is an investment in the development of tribal self-government and hopefully increases tribal responsibility.

These reasons would support Federal financing of our health care with an expectation of successful tribal institutional growth. However, two widely held basic values conflict with the realization of a not-for-profit health organization which acts responsibly to meet the needs of our Indian community: (1) Non-for-profit corporation should not make money; and (2) the concepts of value, ownership and financial integrity have a place in a nonprofit health care organization.

What is remarkable with these misconceptions is that they are opposed to any reasonable prospect for the economic survival of any nonprofit health care organization. Our present contractural relationship with the Federal and State government reflects the impact that these misconceptions have on the financial stability of our organization.

For the past 3 years, the TCHA has provided direct health care services to our people under a negotiated fixed price contract. We have had little difficulty in managing the program and accounting for the expenditure of funding. However, our basic contract for our core staff has been a cost reimbursement subcontract with AFN as prime contractor to IHS. A comparison of our experience warrants our hesitancy to seriously consider cost reimbursement as the most appropriate type of contract. Let me point out to you some of the difficulties with cost reimbursement type contracts:

(1) Our major problem with cost reimbursement type contracts is maintaining an adequate cash flow resulting from—(a) inadequate cash advances for program startup costs. (b) Reimbursement for only "allowable" costs. Many necessary business expenses, for example, interest on bank loans are disallowed.

(2) A second difficulty with cost reimbursement type contracts is that they require a great amount of time accounting for and justifying the expenditures, thus reducing the effort which can be directed toward providing actual health services. Fixed price contracts do not require such massive cost accounting and justification. The energy devoted to providing services under our fixed price contract resulted in a level of service quality that was far above that achieved under the cost reimbursement contracts. Cost reimbursement serves as a useful teaching tool for accounting, but does not provide for improved quality of health service delivery.

(3) It costs more to account for petty items than the actual cost of those items. I think we need to address the issue of the cost effectiveness of cost reimbursement type contracts.

(4) Our experience with IHS these past years leads us to believe that cost reimbursement would tax the ability of the present IHS staff to manage those type of contracts: (a) An accounting procedure was established with the AFN prime contract that was implemented in our subcontract without considering the flexibility of this contract reporting procedure to accept modifications. IHS has required that modifications be made to this contract for program expansion, without additional reporting requirements necessary; (b) cash advances were not provided requiring that the corporation absorb the capital costs of program startup on each of the modifications; (c) project officers were often the primary persons involved in the contract negotiation, and often violated established IHS policies and procedures acting expediently for the benefit of the agency without consultation of either the prime contractor (AFN) or its subcontractors; (d) changes in the reporting procedures of subcontractors were arbitrarily made by IHS without consultations of the prime contractor, and delays in payment threatened if we did not comply; and (e) adequate indirect costs were not encouraged to allow for institutional financial stability.

Our experience leads us to conclude that the nonprofit health care organization which does actually produce a zero bottom line in accounting terms cannot and will not survive. How long can a business survive when it is required to sell its services below actual cost? The primary method which the Federal Government proposes implementation of Public Law 93–638 is cost reimbursement type contracts. Cost reimbursement type contracts cannot provide for inflation, technological improvement, expansion, alteration of services, and, most importantly existence of the organization.

Our management effort has been directed to providing more benefits to our Native community ownership than we could independently provide for ourselves. This effort is what constitutes the maximization of wealth for our community owned institution. Without redirecting our effort toward maximization of financial integrity, we face the prospect of bankruptcy and loss of community ownership.

Why does the Federal Government insist upon cost reimbursement contracts to tribal not-for-profit health care organizations? I do not know, but I do know that cost reimbursement type contracts are in effect Federal taxation of our nonprofit organization. Taxation is a direct result of a reimbursement system which pays less than full charges for services delivered in the form of payment on the basis of "allowable costs" or at less than 100 percent of all charges.

Inflation and the shortfall of cost reimbursement type contracts will force our tribal institution to seek foundation support and fund-raising activities in lieu of accessing the capital market. Without these donations, the result will be a dangerous amount of new corporate debt, and interest which is disallowed cost, unless we take the unpopular decision to reject cost reimbursement contracts for much needed services. In order to implement Indian self-determination through cost reimbursement type contracts, the Federal Government must first acknowledge the tax aspects of the system. Along with recognizing the tax aspects of this system, some simple things such as allowing carryback and carry-forward provisions like those of the U.S. corporate income tax code, would have important impacts on cushioning Native organizations in economic downturns or retrenching periods.

It is also important to recognize the legitimate capital needs of tribal organizations in the lack of debt capacity. With inflation, continued financing is important. This can be done through the allowance of a reasonable level of net income and management fee. Alternatively, it may be necessary to create a composite contract allowing for a fixed level of effort with reimbursable costs and fixed management fee.

Otherwise, I must forewarn my people that cost reimbursement type contracts are an imposition of Federal taxation on established treaty rights, and are intended to oppose the development of financial responsibility that would enable Indian self-determination to materialize. Conclusively, I commend the efforts of the Federal Government to assist in creating some uniformity with the tribes in which it contracts, and I can only express again, the opinion of the Tanana Chiefs Conference that if the tribes standardize, then so should the Government. Much time and money would be saved if there were a standard contracting procedure for all departments. Staff time, both programmatic and management on both contracting parties would be reduced so that much more time and money could be spent on delivering the services intended by the enabling Federal legislation.

And, I would like to say that at the conclusion, that what you heard before would be, if we do not get the contract like we intend, we are not asking for anything special, may I point, but without the 60 contracts, we have no alternative but to refuse it because eventually in time, we will go bankrupt. There's no way in God's given world that we can survive the way that the IHS, PHS, and BIA is demanding that we contract with them. This is—it's an impossible thing that they want and expect us to do. And, gentlemen, we seek your help.

Senator Gravel. You gave a very powerful bottom line about the taxation, the indirect taxation situation, and I think it's very forceful. Is it possible—do you have any extra copies of those regulations? We can obviously pick them up in Washington, but——

Senator Stevens. That's his own. You put together working papers for your trips into the village, haven't you?

Mr. Richards. This is what we got from the Sterling Institute people.

Senator Gravel. And, the other?

Mr. Richards. That's Sterling Institute. We've got copies of the regulations, but I don't know if we have them with us.

Senator Gravel. We probably can chase that down. Steve, I have some questions. Ted, do you have any questions?

Senator Stevens. I have one question, what kind of audit have you had on your performance?

Mr. Richards. We have a program evaluation that was conducted within the past 2 weeks, and the results of that will be available the first part of October.

Mr. Ketzler. The auditors came in and done the auditing late in May and early June. We didn't get a copy of their letter for the audit exceptions until Clay came up. The last time I asked him if he got it, and he said they did, so I asked them to send us a copy so that we would be prepared to substantiate our expenditures, but we haven't gotten back together. Like I say, we have no indirect cost rates set because we do have the problem of contracts or grants being negotiated that did not have the appropriate levels of overhead for administration.

Senator Stevens. What interest rate are you paying—10 percent—8 percent?

Mr. Ketzler. We don't have any loans.

Senator Stevens. I thought Steve said that you borrowed money and the interest wasn't considered?

Mr. Ketzler. Well, we can't borrow money because interest is disallowed. It's not an allowable cost under our contract. See, what happens is that if we go into a cost reimbursable program and we don't get an advance, an appropriate advance, we work into the contract for 30 days, bill, it takes about 2 months to get our costs for the first month reimbursed, so we're 25 percent into the contract and we're OD'd at the bank.

Senator Stevens. Where did you get the money for the bank?

Mr. Ketzler. We don't have any. We're in an OD condition at the bank, that's why I say, unless we can get contracts of either fixed-fee or else cost reimbursable with appropriate advance with a management fee attached, we will be going out of businesses just like fire, it——

Senator **Gravel**. Thank you.

Commissioner **Borbridge**. How is the rate allowed for indirect costs, the overhead determined?

Mr. **Ketzler**. You take—what they like you to do is get an accounting firm and you go in and take all your overhead costs and figure out what they will cost you totally for the year as far as management, and then they prorate each to—like, my salary is prorated so much a percent to the Bureau contract and so many percent by IHS and whoever else we contract with, and they take that percentage of the cost and set a rate which will be anywhere from 15 to 30 percent over the total contract.

Commissioner **Borbridge**. So, it's a separate rate?

Mr. **Ketzler**. It's a separate negotiation.

Commissioner **Borbridge**. Separate negotiation?

Mr. **Ketzler**. Right, but we get into problems of having different regulations from different agencies. Now, like with the DOL (ph), that we have a contract so we can use a certain portion of that contract now for administration, but we can't, under the Bureau regulations and their audit, that didn't come out of it, except from business. We're using direct moneys to pay indirect costs because that's a—it's considered direct from DOL, but it's considered indirect by the Bureau, so they're the——

Mr. **Richards**. It's no standard Federal procedure for contracting.

Mr. **Ketzler**. If they're going to go into self-determination, I think we're just halfway, I think we've got to sit down and standardize the contracting procedures because this creates many problems for us in accounting. One program is allowable and the next one is not, and so, you know, our bookkeeper is in the backroom and working this across the board, so we come up with audit exceptions just from errors.

Mr. **Richards**. One thing I've always wondered is how—when the BIA was operating the programs and when the Indian Health Service was operating programs, how they handled the audit exceptions. One of the key principles that we learn from the Self-Determination Act is that we're not supposed to be treated any more restrictive than the BIA or IHS treated themselves, but they never dealt with audit exceptions.

Senator **Stevens**. Well, they do, but in a different way, and——

Mr. **Richards**. They come back to you.

Senator **Stevens**. And, with us, we then write in prohibitions which we fire the police. Gentlemen, we thank you very much, you've given us a lot to think about. And, I can assure you we want to work with you, particularly be willing to work with you and the regional director and see if we can have some sort of a meeting of the minds here sometime when we've got a statewide gathering anyway, to eliminate as much as possible, the conflicts that seem to be arising out of the procedural aspects of the Self-Determination Act. That isn't really the subject of this hearing, but I would like to see, perhaps if we could head off a necessity to have hearings on any further changes that might be necessary because of misunderstandings of the act. I do thank you very much.

Mr. **Ketzler**. Thank you kindly.

Mr. **Richards**. Thank you.

Senator **Stevens**. Senator Gravel has asked me to extend his apologies, he had, as you recall we were delayed because of winds and other problems and we got in here late, he had to keep his schedule and leave on an airplane. John Borbridge will be the chairman of the hearing during the balance of the period.

Commissioner **Borbridge** [presiding]. Yes; I think Mitch had a statement.

Mr. **Demientieff**. Yes; thank you.

STATEMENT OF MITCH DEMIENTIEFF, PAST VILLAGE COUNCIL CHIEF, VILLAGE CORP.

Mr. **Demientieff**. Senator Stevens, Chairman Borbridge and guests; I'm delivering this testimony as a past Village Council Chief, Village Corp. chairman of the board, Village Corp. president, president of Tanana Chiefs and chairman of the AFN Human Resources Committee. I know it appears that I can't hold a job, but I am intending to show my experience in relationship to Public Law 93-638.

I was raised in the belief that the Tanana Chiefs is the tribal government for the Athabascan people since I first attended the reorganization of the chiefs in 1962, at Tanana as a 10-year-old boy.

To think that the villages individually are a power to deal with is one thing, but the chiefs villages have long since realized that in unity there is strength, thus, we have the chiefs.

During my terms as chief of Nenana we contracted for services with the Government and some of those contracts exist today. However, there is no doubt that we never circumvented the chiefs and in fact, the chiefs provided solid support in obtaining those contracts.

I can only urge the adoption of the Alaska amendments and let the Tanana Chiefs Conference do its job as our only real village advocate.

Thank you. That's all I have to say.

Senator **Stevens**. We have studied and, of course, that's one of the main reasons we're here.

Mr. **Demientieff**. Right.

Commission **Borbridge**. Thank you for your testimony. Is Lucy Carlo here?

STATEMENT OF LUCY CARLO, DIRECTOR, FAIRBANKS NATIVE ASSOCIATION

Ms. **Carlo**. Good afternoon, my name is Lucy Carlo, and I'm director of the Fairbanks Native Association, and the Fairbanks Native Association thanks you and your committee for this opportunity to express our opinion and relate our experiences with Government contracting and with Public Law 93-638.

The Fairbanks Native Association is a private nonprofit organization of Native people residing in the Fairbanks area.

The Fairbanks Native Association has traditionally served the Natives of Fairbanks for the past 15 years. We are recognized by the Tanana Chiefs Conference as a "village" and sit on its 43-member board of directors. In March of this year, the Tanana Chiefs Conference full board of directors passed a resolution recognizing the Fairbanks Native Association as the tribal governing body and/or representative association for the Fairbanks Natives and, therefore, eligible to contract with the Federal agencies to provide services in education, employment, social services and other programs benefiting our people.

We, also, have a resolution from FNA's general membership recognizing FNA as the true representative of the Fairbanks Natives and, therefore, eligible to contract for services on their behalf.

The Bureau of Indian Affairs would not accept these resolutions in their discretionary powers to define who will and who will not contract with them. Under protest, FNA submitted a resolution from Doyon, the profitmaking regional corporation established under the Land Claims Act, which simply stated that they endorsed, recognized and supported our intent to contract with the Bureau. The Bureau failed to recognize that the Fairbanks Native Association is the tribal government which represents the Alaska Natives of the Fairbanks area, and that it was recognized as an Indian tribe for BIA contracting purposes under BIA regulations prior to the implementation of regulations pursuant to the Indian Self-Determination Act.

It is our belief and knowledge that we can and do provide the best service to our own and that the system of contracting services in most cases is the correct means to accomplish this.

Gentlemen, I also believe that any system as complex as contracting, can be improved. In this light, I would like to relate specific examples which we feel could be improved based on our past experiences.

NEGOTIATIONS

Negotiations in the past with the Bureau of Indian Affairs are untimely and at the convenience of the Bureau. Oftentimes, contracts are negotiated after the time they have expired, forcing us to more than compromise and subsequently lose program moneys because we are operating without a contract and hence, no moneys.

For example, the present BIA general assistance contract we are currently managing has 11 modifications to the original contract signed in November of 1973. This averages out to a new contract every 3 months. These modifications include requests by the Bureau to: (1) decrease program amounts; (2) decrease indirect amounts; and (3) provide extension of 2 to 3 months in duration.

Because of these modifications, financial problems are experienced as without a contract the Bureau ceases reimbursement of funds. FNA then operates with limited or no money in the bank to provide general assistance to eligible Natives as well as meeting payroll for its staff. The problem with money flow controls numbers of clients we actually can provide services to.

On another occasion, we submitted on May 25, our proposal to continue the BIA general assistance contract for 1 year starting October 1.

This proposal was submitted over 4 months before contract termination so that we would not have to negotiate at the time our contract terminated. We have written since then to remind the Bureau that October 1 is less than a month away and that we have yet to hear from them on the status of the proposal. We have not heard from them to date and feel that this is a consistent policy of behavior with the Bureau.

We have for the past 3 years operated an alternative accredited high school program called Project Now. Our proposal for fiscal year 1977 was submitted May 1. We negotiated a contract with the Bureau on July 30. At that time, the budget and general program content were tentatively agreed upon. We were asked to submit additional information which we sent to them the middle of August. The contract starting date was supposed to be August 17. With no moneys to begin the program we requested a starting date of September 1. As of last week, no contracts for JOM moneys have been signed yet because contract stipulations have yet to be drawn up. This means that in order for our high school students to receive credit for their classes, they must make up for the hours they missed by us starting our classes late. It also means that we cannot receive moneys or hire staff until that contract is signed.

Contracting procedures are not clearly defined even under Public Law 93–638. For example, most contract negotiations would normally go through the agency office. We were requested in early spring to submit our JOM proposals to the area office. The agency office, to my knowledge, were not notified of our negotiations nor were they informed about the proposal's content.

On August 12, I wrote to Juneau notifying them of our intent to contract for a grant under Public Law 93–638, title 1 of the Indian Self Determination Act, section 104. We submitted the completed proposal August 31. This proposal was to assist Project Now in several key areas: (1) to conduct an on-going evaluation of the project; (2) to work with the Parent Committee, the Fairbanks North Star Borough Board of Education and its administration is designing a Native Education Plan; (3) to design on-going staff training workshops; and (4) to plan and monitor monthly Native workshops for the Fairbanks school system.

These goals fit the purposes and are consistent with the intent of Public Law 93–638 title 1 grants under subsection D which states that the grants may be used for the purposes of "planning, designing, monitoring and evaluating Federal programs serving Indian tribes."

I was notified last week that the proposal must be resubmitted on the Bureau grant "form" and that it must also be submitted to the agency office. This is extremely frustrating because the Bureau will have to evaluate the application and review the intent and purposes of such a grant and that it will further delay processing of an approval of the grant. A grant that should be a starting date of September 1 to correlate with our Project Now contract.

Who to go to in these situations is ill defined in the bureaucracy; there seems to be no particular person in authority to provide direction. When there appears to be someone who can provide direction, often times the Bureau has had problems in defining and interpreting their own regulations.

Let me tell you about another example of inconsistent policy determination. In late 1975, the Tanana Chiefs Conference contracted for most of the Fairbanks BIA Agency services. Since FNA has been operating the BIA general assistance contract for over 8 years, we were requested by the chiefs to assist them in setting up and orienting their staff on policies and procedures for this particular program. We found that many of the procedures that FNA had operated by in the past were different than the procedures that Tanana Chiefs were given by the Bureau. One major example being the difference in amounts of grant money authorized. Since that time, we have met with the Bureau about giving consistent policies to the three major contracting organizations in Interior Alaska, that being the Tanana Chiefs Conference, United Crow Band and FNA.

We have yet to resolve the question of certain types of services we can and cannot provide our clients. FNA can assist a recovering alcoholic while he is receiving treatment. It is still unclear whether the chiefs can provide this type of service even though they have the same type of social service contract. It is annoying and frustrating to FNA because many of the TCC clients must come to Fairbanks for this particular service and we cannot help them.

EVALUATIONS

Since late 1974, when I became director of the Fairbanks Native Association, we have yet to receive a written evaluation of our program or an evaluation of our fiscal administration.

This is not to say that we have had no evaluations. In early June, I was notified that an "outside" evaluation would be conducted of our BIA General Assistance program. We spent 3 weeks with an evaulator from Seattle. Several times I have requested a copy of that evaluation and have yet to receive one. It has been over 2 months since the evaluation occurred. My only assumption is that the evaluation pointed to the many deficiencies and inconsistencies that the Bureau has operated under for many years.

What is regrettable about this situation other than the assumption I have just stated, is that fact that if FNA truly needs technical assistance or financial assistance, a professional and unbiased evaluation would point this out. Public Law 93-638 is required to provide training and technical assistance to those Native organizations that request it in order to implement the philosophy and intent of Indian self-determination. To date, I have seen no technical assistance other than the assistance we receive from the Alaska Federation of Natives.

NO MONEY

An organization such as FNA with a population exceeding 5,000 Natives, operates between 12 and 15 different contracts a year in order to provide services in employment, education, social services, youth recreation, and a comprehensive alcoholism program. In order to operate these programs, we need money and we need it in the banks.

One major obstacle in having moneys to operate a program, is the recordkeeping requirements that the various Federal agencies impose upon our accounting system. We must prepare the financial data several ways to satisfy our grantors and contractors, and at the same time maintain accounting records which satisfy the IRS as well as good accounting practices. Often the differences in requirements are arbitrary and do not affect accountability at all. If your committee should recommend anything of priority, we can't emphasize enough the need to standardize reporting and recordkeeping systems.

Ninety-nine percent of our contracts are cost-reimbursable. That means that we, as a non-profit organization, must have cash advances equaling approximately one-third of the total grant or contract and that this policy must apply in all cases. In no other way can our organization meet its legal obligations in a timely manner. This advance should remain outstanding until the last one-fourth of the contract and that only at this time should it be liquidated on a scheduled basis.

Onsite financial orientation should occur on each grant or contract at the time of award and prior to start of a contract and not half way through or after completion. In other words, we need to know requirements of the contract before we start.

Another policy consideration on financial management of FNA programs would be required to pay FNA for any interest costs incurred if the Agency drags their heels on making timely reimbursements.

In summary, the Fairbanks Native Association is a private, nonprofit organization. It is subjected to all the hazards of that type of organization. It must prepare all the reports required of most business organizations, it must compete in the labor market for its staff, each day it faces potential dissolution from decisions it makes. It is not a government agency with all the protection of a sovereign. It should not be required to organize, function, report or be evaluated on the same basis as an internal government agency.

Again, I would like to thank you for the opportunity to express our concerns relating to Public Law 93-638.

Commissioner BORBRIDGE. We certainly thank you for a very thoroughly prepared testimony. I know that we will find it very, very helpful to us. Senator Stevens?

Senator STEVENS. I have no questions. I agree that it is a very thorough testimony.

Ms. CARLO. I would like to add that the Bureau is not the only Federal program we have problems with, we have problems with Indian Health Service and Law Enforcement Administration, and the National Institute of Alcohol and Alcohol Abuse. We filed a formal complaint to the State on Criminal Justice Planning Agency, mainly dealing with their inconsistent policies. We'll be working with the Tanana Chiefs Conference in trying to renegotate a contract with the Indian Health Service. Last year they gave us a $24,000 contract, there are several stipulations in there that we would like to change, they've given us an additional $35,000 this year, but we haven't used a penny of those funds. The Indian Health Service contracted with the Fairbanks Memorial Hospital to provide detoxication services at $100 plus a day, and they will only allow us $30 per inpatient a day to provide the same services. They won't allow any advances so we won't touch the moneys, therefore, at the present time, there is no one in the city providing any of these services. They just don't respond, and I could write the same thing about them that I have this year. Thank you.

Commissioner **Borbridge.** Thank you, Ms. Carlo. We do have another witness from this area, we observe that there are representatives who have traveled into Fairbanks from the North Slope area. perhaps Barrow. In order to insure that adequate consideration is given to testimony of those who have traveled into Fairbanks, we have been advised that Rosita Worle wishes to testify on behalf of the northern area. Mrs. Worle, if you would come forward please?

STATEMENT OF ROSITA WORLE, TLINGIT

Ms. **Worle.** Senator, Mr. Borbridge, my name is Rosita Worle, I am a Tlingit enrolled under the Alaska Native Claims Act to the village corporation of Klukwan. However, for the past year, Barrow has been my home. I've been up in Barrow doing scientific investigation of the political development of the North Slope in Upia.

For the record, I'm not representing anyone in any official capacity, however, I have been involved with Public Law 93–638 in the interest of the borough. I would like to believe that I am speaking in the interest of Alaska Natives in offering my empirical analysis of what I perceive to be the Alaska Native social structure, and particularly focus on the Arctic Slope.

Alaska is the aboriginal territory for four principle cultural groups, the Eskimos, including the linguistically distinct Enupiak and Upik, the Aleut, the Athapaskan and the Tlingit, the Haida Indians, and today the Tsimshians who migrated to Alaska in the early historical period.

Within each group, tribes existed in the legal and political sense, Alaska Natives have undergone considerable change, but the contemporary enclaves persist as distinct entities and are still fundamentally different from the encompassing society. A significant factor in their persistence in their continuing relationship to the land.

I think it would be important for us to spend a few moments analyzing the functional economic system of rural Alaska to see how it affects the social organization of the community. Today this economy includes an interdependency between cash and subsistence economies. An individual requires a liberal of cash income to do subsistence hunting and fishing. Concomitantly, the community is dependent upon the total or the harvested resources. The standard economic models do not depict the functional economic system in rural Alaska; for example, the standard Federal or State income tax forms measures the cash income of individuals or the single family households, but it does not analyze the profit and loss statements of subsistence incomes. The tax laws do not permit an individual to claim dependents, deductions or allowances or the distribution of the harvestable resources among community members, including the extended family, the elderly and the needy. The hunter invests a significant portion of his cash income in the entire community; this economic interchange is particularly evident in the Enupiak whaling complex where formal rules of sharing are adopted.

I contend that the hypothesis of a cash income negates a subsistence activity is no. However, this is an attitude policymakers often adopt to the detriment of the Native community. I suggest that a primary factor for the survival of Alaska Native cultures is their communal occupation in use of their land and natural resources.

Political unification of the various tribes within Alaska began when aboriginal land and hunting rights were threatened. Throughout various areas, there was a movement toward regionalism, in southeast, the Tlingits and Haidas followed by the Athapaskans and the North Slope Eskimos all united against common threats. Regional groups organized themselves on aboriginal concepts of lands use and occupancy patterns within a region. This natural evolution of regionalism in response to impinging forces could have occurred in aboriginal times. If they had, their regional entities would have been known as tribes, but the fact that they occurred in historical times they were called "associations" instead, but the concept is the same.

It may seem that I'm belaboring a point, but I would like to emphasize that the evolution of 12 regional entities was a self-initiated action. If the groups had decided to call themselves tribes, it would have been as legitimate as calling themselves associations. Their regional entities were further qualified into law with a passage of the Land Claims Act. However, there are basic differences with which we are all familiar. I'm speaking of the profitmaking characteristic. For the purpose of this investigation, the membership variable must be the primary consideration.

The corporations will facilitate the disenfranchisement of children born after the passage of Public Law 92-203. Although it is foreseen that some children will inherit shares, it is also a foregoing fact that not everyone, even today, shares equitably in the distribution of the economic and political benefits of the Settlement Act in terms of land, monetary income, and the right to vote or to be elected to governing boards of directors of village and regional corporations.

Moreover, it is just as certain that under the present legislation, membership in Native corporations will include non-Natives. Thus, in Alaska, we have regional entities which include the self-created associations and the Tlingit and Haida central council, which is distinct from the other associations because of their past history with the Government. The profitmaking corporation created under 92-203, the regional IRA of the North Slope, the Enupiak community of the Arctic Slope and the North Slope Borough, a State municipal government. In addition, Alaska has a number of regionwide reserves.

It is my opinion that the North Slope Enupiak took a progressive step in their formation of the North Slope Borough along with their regional IRA. Each organization has its own function, be it profitmaking, a profitmaking orientation, or providing governmental services. It is an action that I am certain will be repeated in other rural areas because of the potential benefits. In words of Joe Pikson, president of the Arctic Slope Regional Corporation, "We created a government to take care of governmental functions and to deliver governmental services." Unlike the urban centers where Natives are the minority and their influence in municipal government limited, the North Slope Borough is a predominantly Eskimo municipal government. Unquestionably, Alaska Natives are at the threshold of rapid and significant cultural and social change.

The situation in Alaska is complex, but perhaps the most critical factor to note is that Alaska Native organizations are in a stage of flux. Although the Settlement Act offer threats of potential conflicts within the intercorporate relationships, these relationships and the delegations of functions and powers between regional entities and between local and regional organizations are currently being resolved.

I am recommending that the locus of all tribal powers lie within an entity that is 100 percent Native and with members having perpetual membership and equal membership.

I further recommend that the regional concept be accepted as a tribal government for the purposes of contracting. And, I further recommend that tribal regional organizations be allowed to delegate powers or the right to contract to other bodies if they so desire. And, in this particular instance, I'm talking about the North Slope where, in fact, we have the ASRC delegating to the borough, the health functions and the right to contract under IHS.

Commissioner BORBRIDGE. I want to thank you for a very well prepared and profitable testimony which clearly lays the basis for your recommendation. Senator Stevens.

Senator STEVENS. Yes; it's very clear, and I'm sorry that we didn't get an opportunity to hear Jerry Erpickson, and I know he was here, and if you'll tell him that we're sorry that the time frame was a difficult one.

Commissioner BORBRIDGE. The record will be kept open for 30 days. Thank you.

Ms. WORLE. Thank you.

Commissioner BORBRIDGE. On the witness list, the individual who is scheduled to appear next is Mr. Bill Timme.

STATEMENT OF BILL TIMME, GENERAL COUNSEL, DOYON, LTD.

Mr. TIMME. Thank you, Mr. Chairman, Senator. My name is Bill Timme and I am general counsel of Doyon, Ltd. And, I wish to express the regrets of our president, Tim Wallis, who because of another engagement, was unable to be here today.

Briefly, I would like to summarize the testimony that I have submitted. It is the position of Doyon, Ltd., that it fully supports the inclusion of the regional associations as tribal entities for purposes of the Indian Self-Determination Act. I think the situation in Alaska has to be viewed again, as I'm certain both of you gentlemen are aware, to the uniqueness of the Alaskan scene. The tribal organizations as they exist outside, being both economic governmental and having social concerns as well, are not paralleled in Alaska. Instead, we have different organizations serving the same functions. In our region's case, Doyon, Ltd., serves the purposes to promote the economic wellbeing of the Native people of interior Alaska, whereas Tanana Chiefs Conference concerns itself primarily with the social, health, and welfare of the people. Governmental institutions are handled primarily through the governmental institutions created under State law. Therefore, it seems only natural that we're the people in this instance, have chosen the Tanana Chiefs Conference to be their spokesman, to be the implement to all social services programs, that the government should likewise recognize this.

It seems like the definition in the Indian Self-Determination Act is more than adequate to provide this representation. It's unfortunate that because of the positions that the Department has taken, it's necessary for the people to come forward, to have to offer an amendment in order to have this recognition extended.

Thank you.

Commissioner Borbridge. Thank you, Mr. Timme.

Senator Stevens. I don't have any questions. Thank you.

Mr. Timme. Thank you.

[The prepared statement of Mr. Timme follows:]

Statement of William H. Timme, General Counsel, Doyon, Ltd.

My name is William H. Timme. I am general counsel of Doyon, Limited, one of the 12 regional corporations organized pursuant to the provisions of the Alaska Native Claims Settlement Act. On behalf, of Doyon, I wish to express our appreciation for the opportunity to testify before the committee today on the proposed amendments. I also wish to extend the apologies of Tim Wallis, president of Doyon, Limited, for not being able to be present but he had a prior engagement which he was not able to reschedule.

Doyon, Limited urges the acceptance of the proposed amendment under consideration by the committee. As presently defined "indian tribe" is being limited in its application in Alaska only to those regional and village corporations established by ANCSA. This application does not recognize the realities of indian organizations in Alaska.

Outside of Alaska, tribal organizations have been developed over the past 100 years to provide a full range of services—governmental, educational, social, as well as economic. This model was not extended to Alaska except for the Metlakatla community.

As the members of the Alaskan delegation are aware, the regional Native associations, such as the Tanana Chiefs Conference, have historically been the voice of the people in matters pertaining to social concerns. The governmental functions exercised by tribes on reservations outside were never fully developed but rather the communities, by and large, are governed by a nonracial municipal corporation established under State law.

Since 1971. with the adoption of ANCSA, property which might be considered to be "tribal" in nature is held by corporations organized under State law in accordance with the provisions of ANCSA. These corporations were created for the sole purpose of receiving and administering the benefits of the Settlement Act and hopefully to further the economic well-being of their shareholders, the Alaskan Natives.

Yet it is only these corporations which Congress has included within the meaning of indian tribe for the purposes of Public Law 93-638.

It is interesting to note here that in reality the regional corporations are defined by section 7(a) in terms of the native associations—for instance, that area to be administered by Doyon, Limited, was defined to be the same as that served by the Tanana Chiefs Conference.

Doyon strongly urges the inclusion of the regional Native associations within the definition of Indian tribes. Their inclusion will enable the Native people of Alaska to fully receive the benefits of the Self-Determination Act. I would like to note here that the ANCSA corporations should retain their inclusion within the term "Indian Tribe" in order for them to be the vehicle for the intended benefits under the Indian Financing Act and the other programs directed to the economic well-being of Native americans.

Again, on behalf of Doyon, Limited, I wish to express our appreciation to the members of the committee for their directing their time and energies to resolve this unforseen and uniquely Alaskan problem that the definition has created.

Commissioner Borbridge. Our next witness is Chief Andrew Issac.

STATEMENT OF CHIEF ANDREW ISSAC

Chief **ANDREW ISSAC**. Thank you, Mr. Borbridge, I'm here to my young generation, education, the problems, their needs to what they're talking about. And, I was going to talk about the Tanana Chiefs; us Natives here, long before this young generation, they're going to be in this problem. The Second World War in 1942, the roads are coming in too fast and we expect there are going to be problems. Not just this once, we're beginning to talk about this land claims and the rest of the problems. In my area, we didn't have that much education, not like Eskimo people have, Aleuts. And, I'm glad my friend of mine, John here, and I've been meeting with him in Anchorage many times. So, my young generation, they put it up and they have their meetings, they try to make name and like this Tanana Chiefs.

Us Natives in this area here long before white people come in. From way up to [indiscernible] and the boardering line, from their chief, people hold on together. End of spring, end of May, the skin boat, the canoe, they have all kinds, furs, skins, ivory, snowshoes, they all load up and go down to Tanana where they met big boat. The rest of end of May, they start back, May, June, July, August, today, September. Us Native people in all these months got a name in too. And about the time, in this month, a few people beginning to come back. That's what they call us, "Natives," in their way, directly name, Nuchuloya. Lots of my young generation in this area, they know that name. That's where our chief peoples, they coming in.

Here you are, you all Senate in from Washington, you're coming in here and have a meeting with my young generation and the problems that they have learned not too long ago, and they telling you what they need. They elect me to be traditional chief in 1972, I over them and Tanana Chiefs and Doyon.

I want you, our Senate and our commission here, as Tanana Chief, I want [indiscernible] new laws (phonetic) because our Native way, my plan—either our Government body. I tell you that—I can't figure it out, which way to put my Native problem to put it in Government body. That's one thing as Tanana Chief, Senator Gravel before he goes, he talk about a tribe, I understand that too, we got a name in that tribe, like you folks have a tribe, American, and Germans, Russian, Sweden, lot of tribes, us Native people, same too. We called a name, we know who's at that tribe and we know where it belong to.

I'm glad—I hope you folks, being in big office—my young generation bring in a lot of education that they learned and the problem that they read before you folks, and I hope you help them and I thank you that you folks are here. And, I'm glad to be sitting before you, and God bless you and good luck and see you. [Testimony may be unclear because of the broken English Chief Issac had.]

Commissioner **BORBRIDGE**. Thank you, Chief Issac. I want to say to you, that having the privilege of appearing on that side of the table with you on many many occasions, it is not only a pleasure to see you here now, but I would like to comment for the benefit of the Tanana Chiefs Region, that one of the very inspiring things that I have witnessed in my relationship and acquaintance with our people, our brothers here, is that the young people as they move ahead trying to serve their people, have the full support and understanding of the elders such as yourself. And, I think it is just the very inspiring thing and it's a pleasure to be on this side of the table and to be able to say this to you now.

Chief Issac. Thank you.

Commissioner Borbridge. Thank you very much, Chief.

Senator Stevens. It's obvious that they have a great deal of respect for you and those who have come before them too, so we're happy to have your advice.

Chief Issac. Thank you.

Commissioner Borbridge. This completes the witness list that has been submitted to us, do we have any further testimony? [Pause.] Is Mr. Gideon James present please?

Mr. Demientieff. We had some other people that were scheduled to come in, unfortunately they had a lot of trouble traveling this time of year, so we didn't get all the people that were originally going to come. And, actually the only person we got to come in from any villages was myself and Roger Huntington.

Commissioner Borbridge. We certainly appreciate your assisting us with this, and if they wish to, would you please advise them that they have an opportunity to send in a written statement?

Mr. Demientieff. Sure. Everybody is advised, and I understand that there are some people that are preparing written testimony.

Commissioner Borbridge. Fine. Does this also include Dorothy Anderson?

Mr. Demientieff. Yes.

Commissioner Borbridge. And, Ted Charles?

Mr. Demientieff. Yes; he wasn't able to make it.

Commissioner Borbridge. OK. Fine.

Mr. Demientieff. There is two pieces of written testimony, and I guess you guys got it already, it was submitted by Pat Issacson and Ernest Holmberg from McGrath.

Commissioner Borbridge. OK.

Mr. Demientieff. That was in lieu of Anderson coming. Ernie sent that testimony.

Commissioner Borbridge. Fine. Are there any others that you are aware of, Mitch, who are present who wish to testify who have not signed up?

Mr. Demientieff. Nobody that I know of.

[The prepared statements of Mr. Isaacson and Mr. Holmberg follow:]

STATEMENT OF PAT ISAACSON, PRESIDENT AND CHAIRMAN OF THE BOARD, BEAN RIDGE CORP.

My name is Pat Isaacson. I am the president and chairman of the board for the Bean Ridge Corp. of Manley Hot Springs. We are the profitmaking corporation organized for the purpose of administering the Alaska Native Claims Settlement Act. We wish to urge the acceptance of the Alaskan Amendments being presented here today by Tanana Chiefs.

Our reasoning is thus:

(1) We are a profitmaking corporation and as such cannot engage in the presentation of social services, and if we could, would not do so because of the shortage of qualified persons available and our lack of expertise.

(2) The Tanana Chiefs has been duly appointed by conference to govern us in such matters concerning the health, welfare and education of our people, and has executed these responsibilities in an ardent and professional manner.

(3) The Tanana Chiefs has been the traditional governing body elected by the people for their mutual benefit.

In short, gentlemen, we are very pleased with the performance of the Tanana Chiefs Conference and again urge the change by amendment in the definition of "Tribe" within Public Law 93-638.

Thank you.

STATEMENT OF ERNEST HOLMBERG, AREA CHIEF, UPPER KUSKOKWIM NATIVE ASSOCIATION

I am sorry I am unable to attend your hearing here in Alaska. We have "subsistance and winterization" to worry about at this time.

I have noticed that you are called a "sub-committee on Indian Affairs" and are presently dealing with the problem of defining the word "Tribe." I remember reading in the Congressional Record, the debate on the definition of the word "Indian" versus the word "Native". You have made some progress on this word. I see we are not referred to as Natives with a small "N" but with a large "N". It seems, with each additional act from our Nations capital dealing with Alaska Natives, the letter "N" seems to become larger and larger. Now it is hatching other little words like "Tribe". What I think you ought to do is to change the small "T" in the word "Tribe" to a large "T". That way we, as Alaska Natives will truly be recognized as the "Lost Tribe of Israel". This may easily solve the problem and you can go home.

Ever since our American Native brothers in the lower forty eight were defeated by bullets and put into concentration camps we have identification problems with Congress on exactly who, how, and what we are as Alaska Natives. We have not been defeated by bullets. The only ammunition, some lawyers, some bureaucrats, and some congressman have left are words. In every act that Congress passes dealing with us and for that matter with all citizens of the United States, words have been designed to slow us down and phase us into the mainstream of being so called "All American". It took a long time for us to be recognized as American citizens. Our race, culture and heritage points to the fact that we are the "All American People" of this Nation. Now the Bureau of Indian Affairs ask, "What tribe of the Alaska Native people are you from?"

Since we are not on reservation status, we have been, a problem to the bureau, past history has proved this a fact. We are no longer considered Indian but "Alaska Native". It would be easier to identify us as a tribe if we lived on reservations. We live in villages scattered through out the interior. The definition of "Tribe" here in Alaska is different than the lower forty-eight. The villages of our association band together in conference twice a year with Tanana Chiefs, as a tribe, to try to help solve our problems. Before each conference, the individual councils of our association meet in the village and discuss problems to be brought up in the conference. Then, there is an election of a delegate to attend. We recognize our villages as bands, with the Tanana Chiefs as our tribal organization.

My most simple recommendation to you is for the villages to practice Alaska Native self determination and for you to allow us to do so.

If the BIA insists on allowing the villages to be consulted on this manner, I would suggest that the BIA fund a comprehensive educational package allowing the chiefs to have workshops in every village. A one shot-two day workshop per village like this would cost at bare minimum $200,000 for the chiefs region alone and should culminate in a permanent resolution passed by each council. Repeated gathering of resolutions for every village is cumbersome to village and region alike.

I would like to end by telling you a true story I picked up in one of the villages I visited. It was a problem of self identification. A stranger came into the village. He noticed children at play. Among them there was one of lighter complexion. He asked the boy of what nationality he was. The boy pondered for awhile and replied, "I think I am half Indian and half cowboy." I think we, as native people, fall under the same predicament. We want Tanana Chiefs to be recognized as our tribe but we don't want "Cowboys" running the whole show. Under self determination, we want the rope cut off from B.I.A.

Commissioner **BORBRIDGE.** Are there any in the audience who wish to testify on specific points relative to the Indian Self-Determination Act, Indian financing and perhaps related areas? Yes? Would you please identify yourself?

STATEMENT OF BOB WORLE, DIRECTOR, HEALTH DEPARTMENT, NORTH SLOPE BOROUGH, BARROW, ALASKA

Mr. **Worle**. My name is Bob Worle and I'm the director of the Health Department of the North Slope Borough, Barrow, Alaska. And, primarily I would like to inform you that I would like to submit a written statement at a later date. It will touch upon the problems that we have had in terms of being a contractor with Indian Health Service programs and our attempts to assist in development of the delivery program for Bureau of Indian Affairs programs through the 638 mechanism. And, I just wanted to make you aware that I would like to submit a written statement at a later date.

Commissioner **Borbridge**. Fine. We will be looking forward to this, and it can be sent to either Senator Abourezk or to either Senator Stevens or Senator Gravel.

Mr. **Worle**. I'll make sure that copies are sent.

Commissioner **Borbridge**. Fine. They will be made a part of the record at that time when you submit them. [Not received.]

Senator **Stevens**. I guess that's it.

Commissioner **Borbridge**. If there are no further witnesses, again, we wish to thank all of you for coming here, after all, it's your presence that makes these hearings worthwhile and I know that we've gained a great deal of valuable insight because of your efforts. So, there being no further witnesses who wish to testify, we'll now declare these hearings adjourned.

[The hearing is adjourned.]

APPENDIXES

Appendix I

Legislative History of the Indian Finance Act

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LEGISLATIVE HISTORY OF THE INDIAN FINANCE ACT

(By Lill[illegible] V. Peters, Research Assistant, T. & H. Central Council, Southeast Agency)

SOURCES OF INFORMATION

PUBLIC LAW 93–262—INDIAN FINANCING ACT OF 1974, APRIL 12, 1974

U.S. Code Congressional and Administrative News

House Report No. 93–907, 2nd Sessions (1974) at 2876—a good brief summary of the legislative history of this Act. (approx. 8 pages)

Weekly Compilation of Presidential Documents

President Nixon's Indian Message of:

1. July 13, 1970—Vol. 6, No. 27. The essence of title I & II, of the Act outlined.
2. Aprii 13, 1974—Vol. 10, No. 16. President's statement upon signing the Indian Finance Act into law.

Congressional Record

1. Vol. 120 (1974):
   - a. March 18—considered and passed House, amended in lieu of HR 6371. pp. H 6964–69.
   - b. March 27—Senate agreed to House amendment with an amendment. pp. H 8386–91.
   - c. April 1—House concurred in Senate amendment (p. H 2344).
2. Vol. 119 (1973):
   - a. July 28—considered & passed Senate.

Hearings and Reports

1. 1972 CIS/Annual Senate Hearings: August 1, 1972—Microfiche No. S441–86.
2. 1973 CIS/Annual:
   Senate Hearings—S441–48.
   Senate Report (No. 93–348)—S443–20.
3. 1974 CIS/Annual:
   House Hearings: October 12, 1973—H441–7.
   House Report (No. 93–907 accompanying H.R. 6371)—H443–8.

REPORT ON THE LEGISLATIVE HISTORY OF THE INDIAN FINANCE ACT

Public Law 93–262, the Indian Finance Act, became the second of President Nixon's seven Indian measures to be enacted. President Nixon first introduced the "Indian Financing Act of 1970" to Congress in his Indian Message of July 8, 1970:

"As I said in September of 1968, it is critically important that the Federal Government support and encourage efforts which help Indians develop their own economic infrastructure. To that end, I am proposing the Indian Financing Act of 1970" (The essence of Titles I & II of the act are found in the message).

The President's Financing Act is encompassed in HR 18571 and S 4116. In order to gather by-partisan support for his bill, the President requested that both democrats and republicans introduce the legislation. To enhance the passage of his bill, the President sought the support of leading men on both the House and Senate Interior and Insular Affairs Committee. The leading republican John Saylor of the House Interior and Insular Affairs Committee formally introduced HR 18571 on July 21, 1970, and Chairman Jackson of the Senate Interior and Insular Affairs Committee introduced S 4416 on July 23, 1970. Although the bills had the support of powerful men on both committees and, in addition, the backing of leading representatives from the Indian Affairs Subcommittee, the bills

p. 200 blank

never came up for hearings primarily because the Subcommittees were preoccupied with other legislation which they regarded as more urgent (such as the Alaska Native Land Claims Act). Consequently, these two bills H.R. 18571 and S. 4116 died in their respective Houses.

In 1971, the President again initiated the action for an Indian Finance Act. Senator Jackson and Senator Abourezk introduced the Administration's proposal—S. 1013 the "Indian Financing Program of 1971" and S. 1015, the "Indian Business Development Program Act." But again, both the Senate and House Subcommittees agenda was too busy with other legislation to hold hearings on these bills.

In 1972, however, the Senate schedules hearings on S. 2036 "Indian Finance Act of 1971" and S. 2237 "Indian Business Development Program Act." The Department of Interior, on behalf of the Administration, submitted S. 2036 to Congress April 13, 1971 and Senator Byrd (for Mr. Jackson, himself, and Mr. Allot) introduced the bill to the Senate June 9, 1971. The Department of Interior submitted S. 2237 to Congress July 12, 1971, at which time, Mr. Jackson introduced the bill to the Senate. Both bills were read twice, referred to the Committee on Interior and Insular Affairs, and then referred to the Senate Indian Affairs Subcommittee. August 1, 1972, the Subcommittee held hearings on both bills. During this hearing, the Senators discussed the possibility of combining the two programs (the Finance Program and the Indian Business Development Program) under one piece of legislation. The Assistant Secretary of the Interior, for Public Land Management Mr. Loesch, representing the Administrations view, testified against the adoption of such a union between the two programs. Aside from Mr. Loesch's testimony, a few Native leaders testified about the impact the legislation would have on their tribes. The hearing ended with a report on the Secretary of Interior's letter supporting the passage of this legislation. But with no action taken on the House side, the bills died in the 92nd Congress.

In 1973, the Administration introduced legislation pertaining to these two programs, S. 1341 the "Indian Finance Act of 1971". Similar legislation H.R. 5371, H.R. 6493, H.R. 9843, and [illegible] was also introduced that Congress. With the increased interest among more representatives, the subcommittees in both Houses finally received the necessary impetus for serious consideration of the legislation. In the Senate, the subcommittee on May 31, 1973 held hearings on S. 1341, S. 1013 ("the Indian Finance Program of 1971), and S. 1015 "The Indian Business Development Program). Because the language in S. 1341 was unclear in several places, the Subcommittee voted to delete the language of S. 1341 after the enacting clause and insert in lieu thereof the provisions of S. 1013 and S. 1015, and ordered the bill reported to the full Committee on Jun 11, 1973. The full Committee approved S. 1341, as amended by the subcommittee with some further amendments on July 20, 1973. On July 28, Mr. Mansfield asked unanimous consent that the Senate consider S. 1341, calender number 331. There being no objections, the Senate considered the bill. After an amendment had been agreed to, the bill was ordered to be engrossed for a third reading, read the third time and passed.

The House proved to be not as successful as the Senate. On October 12, 1973 the House Subcommittee on Indian Affairs held a hearing on the various proposals for an Indian Finance Act: H.R. 6371, H.R. 6493, H.R. 9843, H.R. 10562 and S. 1341. During the hearing, John Kyle the Assistant Secretary of the Interior for Congressional and Public Affairs spoke favorably on the bill in behalf of the Administration. Various Native leaders testified on the impact the legislation would have on their tribes (among these are the key testimonies of Clarence Jackson, Ray Paddock and Robert Willard). The full Committee on Interior & Insular Affairs did not hold any hearings on the proposed legislation. Again the attempts to push the legislation through Congress came to a standstill.

But in 1974, the House Subcommittee proved successful in scheduling a hearing with the full Committee. March 13, 1971 the Committee favorably reported H.R. 6371 to the Committee of the Whole House on the State of the Union. Mr. Meeds, Chairman of the House Indian Affairs Subcommittee moved that H.R. 6371 be brought to the attention of the House floor. He yielded himself time to explain the various amendments the Subcommittee had proposed i.e. the substitution of the language with the adoption of H.R. 9843 language (which is identical to S. 1341 as passed by the Senate) and the addition of a new title providing management and technical assistance to the economic enterprises receiving benefits from the Act. In addition, Mr. Haley, Mr. Taylor, Mr.

Regula, and Mr. Zwach also presented supportive statements. The Speaker then acknowledged Mr. Meeds request for consideration of the bill as amended, and H.R. 6371 was passed. Mr. Meeds presented an amendment which was agreed to and a motion to reconsider was laid on the table.

March 27, 1974, Mr. Mansfield brought S. 1341 to the attention of the Senate. The Senate favorably considered the message from the House, i.e. the House amendment to the bill. Mr. Jackson, after urging his colleagues to favorably pass on the legislation, moved that the Senate concur with the amendment of the House. The Senate did so, but also added a small amendment. On April 1, 1974, Mr. Meeds asked the House for unanimous consent to concur in the Senate amendment. The Senate amendment to the House amendment was concurred in and a motion to reconsider was laid on the table. The Indian Finance Legislation had finally made it through both Houses. On April 13, 1974, President Nixon signed the Indian Finance Act into law.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS

JULY 13, 1970 (VOL 6, NO. 27)

[illegible] president in his July 8, 1970 message called for more economic development planning by Indian tribes and asked the secretary to work toward that end:

As we move ahead in this important work, it is essential that the Indian people continue to lead the way by participating in policy development to the geatest possible degree. (p. 904)

Economic self-determination:

As I said in September of 1968, it is critically important that the Federal government support and encourage efforts which help Indians develop their own economic infrastructure, to that end, I am proposing the "Indian Finance Act of 1970."

This quote is also found in the President's letter to Honorable Carl Albert, Speaker of the House of Representatives.

PROPOSED LEGISLATION (PP. 897–898)

Points made concerning self-determination:

Empower a tribe or any other Indian community to take over the control or operation of Federally-funded and administrative programs in the Department of the Interior & HEW whenever tribal council or Indian community governing group voted to do so.

Those cases where an impasse arises over who should administer (Feds or Indians), final determination should rest with Indian community.

Indians given the right to select specified portion of the program. If they choose, they can give administrative responsibility back to the Fed government.

Guarantees the right of Indians to contract for control or operation of Fed programs.

PRESIDENT'S EXECUTIVE ORDER 11635

The 1970 Presidential message states:

Self-determination will become reality when an era is initiated in which the Indian future is determined by Indian act and Indian decisions.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, JULY 13, 1970

* * * * * * *

5. Economic Development Legislation

Economic deprivation is among the most serious of Indian problems. Unemployment among Indians is ten times the national average; the unemployment rate runs as high as 80 percent on some of the poorest reservations. Eighty percent of reservation Indians have an income which falls below the poverty line; the average annual income for such families is only $1,500. As I said in September of 1968, it is critically important that the Federal government support and encourage efforts which help Indians develop their own economic infrastructure. To that end, I am proposing the "Indian Financing Act of 1970."

This act would do two things:

1. It would broaden the existing Revolving Loan Fund, which loans money for Indian economic development projects. I am asking that the authorization for this fund be increased from approximately $25 million to $75 million.

2. It would provide additional incentives in the form of loan guarantees, loan insurance and interest subsidies to encourage *private* lenders to loan more money for Indian economic projects. An aggregate amount of $200 million would be authorized for loan guarantee and loan insurance purposes.

I also urge that legislation be enacted which would permit any tribe which chooses to do so to enter into leases of its land for up to 99 years. Indian people now own over 50 million acres of land that are held in trust by the Federal government. In order to compete in attracting investment capital for commerical, industrial and recreational development of these lands, it is essential that the tribes be able to offer long-term leases. Long-term leasing is preferable to selling such property since it enables tribes to preserve the trust ownership of their reservation homelands. But existing law limits the length of time for which many tribes can enter into such leases. Moreover, when long-term leasing is allowed, it has been granted by Congress on a case-by-case basis, a policy which again reflects a deep-rooted pattern of paternalism. The twenty reservations which have already been given authority for long-term leasing have realized important benefits from that privilege and this opportunity should now be extended to all Indian tribes.

Economic planning is another area where our efforts can be significantly improved. The comprehensive economic development plans that have been created by both the Pima-Maricopa and the Zuni Tribes provide outstanding examples of interagency cooperation in fostering Indian economic growth. The Zuni Plan, for example, extends for at least five years and involves a total of $55 million from the Departments of Interior, Housing and Urban Development, and Health, Education and Welfare and from the Office of Economic Opportunity and the Economic Development Administration. I am directing the Secretary of the Interior to play an active role in coordinating additional projects of this kind.

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CONGRESSIONAL RECORD

1. March 18, 1974 (Vol. 120), House considered and passed the Finance Act, amended in lieu of H.R. 6371.

Interesting quotes relating to self-determination in economic concerns:

Mr. Taylor (North Carolina) p. 6967:

"In short, Mr. Speaker, H.R. 6371 is a bill which is designed to help the Indian people help themselves. It is a comprehensive effort to help our original Americans secure the financial assistance which they need in order to develop the economic security which they deserve."

Mr. Zwach p. 6967:

"This bill is not only a beginning step in the strengthening of our native American's self-determination in their economic future . . ."

2. March 27, 1974 (Vol. 120), Senate agreed to House amendment with an amendment.

Quote pertaining to the purpose of the act:

Mr. Jackson p. 8388:

"Mr. President, the purpose of this measure is to provide capital on a reimbursable basis to help develope and utilize Indian resources, both physical and human, to a point where the Indians will fully exercise responsibility for the utilization and management of their own resources and where they will enjoy a standard of living from their own productive efforts comparable to that enjoyed by non-Indians in neighboring communities."

LEGISLATION INTRODUCED IN 1970

S. 4116

91st Congress, 2nd Session. In the Senate, July 23, 1970 Mr. Jackson (for himself, Mr. Allot, Mr. Fannin, and Mr. Hansen) (by request) introduced S. 4116 which was read twice and referred to the Committee on Interior & Insular Affairs.

(May be cited as the "Indian Financing Act of 1970." To provide for financing the economic development of Indians and Indian organizations, and for other purposes.

This bill is identical to H.R. 18571, which is the administration's proposal submitted to Congress.

Definitions Sec. 3:

(b) Indian means any Indian, Aleut, or Eskimo having one-quarter or more degree of Indian, Aleut, or Eskimo blood.

(c) Tribe means any tribe, band, community, pueblo, or other group of Indians recognized by the United States.

"Reservation" is not specifically defined.

Titles under S. 4116:

Title I—Indian Revolving Loan Fund.
Title II—Loan Guaranty and Insurance.
Title III—Interest Subsidies and Administrative Expenses.

The Senate Interior & Insular Affairs Committee did not take any further action on the bill, and consequently, it died in the 91st Congress.

H.R. 18571

In the House of Representatives, July 21, 1970, Mr. Saylor (for himself, Mr. Berry, Mr. Burton of Utah, Mr. Kyle, Mr. Steiger of Arizona, Mr. Polluch, Mr. McClure, Mr. Don H. Clausen, Mr. Wold, Mr. Camp, Mr. Lujan, Mr. Aspinall and Mr. Haley) introduced the following bill; which was referred to the Committee on Interior & Insular Affairs.

The language and provisions of H.R. 18571 are identical to S. 4116.

H.R. 18571 is the bill that the administration submitted to Congress on July 21, 1970. President Nixon mentioned the bill in his Indian Message to Congress July 8, 1970. This bill was the first of its kind to be considered by Congress. However, the Committee on Interior & Insular Affairs did not take any further action on the bill and, consequently, it died in the 91st Congress.

H.R. 18790

91st Congress, 2nd Session. In the House of Representatives, August 4, 1970, Mr. MacGregor introduced the following bill; which was referred to the Committee on Interior & Insular Affairs.

The language and provisions of H.R. 18790 are similar to that of H.R. 18571.

The Committee on Interior & Insular Affairs did not take any further action on H.R. 18790 and it died in the 91st Congress.

HEARINGS AND REPORTS

SENATE HEARINGS

SENATE HEARINGS, AUGUST 1, 1972 (MICROFICHE NO. 7441–86)

Hearing before the Subcommittee on Indian Affairs of the Committee on Interior & Insular Affairs, 92nd Congress, 2nd Session.

S. 2036 (May be cited as the "Indian Financing Act of 1971") A bill to provide for financing the economic development of Indians and Indian organizations and for other purposes.

S. 2237 (May be cited as the "Indian Business Development Program Act") A bill to provide for the establishment within the Dept. of Interior the Indian Business Development Program to stimulate Indian entrepreneurship and employment and for other purposes.

S. 2036

History: S. 2036 submitted to Congress by the Dept. of Interior April 13, 1971. Introduced by Mr. Byrd of West Virginia (for Mr. Jackson) (for himself and Mr. Allot) (by request), June 9, 1971, in the Senate. Read twice and referred to the Committee on Interior & Insular Affairs.

Department of Interior Report recorded in the Hearings:

The Assistant Secretary of the Interior in his letter to President Nixon stated that—

> We recommend that the proposed (S. 2036) be referred to the appropriate committee for consideration, and that it be enacted.
>
> The Office of Management and Budget advises that the enactment of the proposed legislation would be in accord with the program of the President.

The Assistant Secretary forwarded a copy of this letter to the President of the Senate Spiro T. Agnew.

Definitions in S. 2036:

(b) Indian means any Indian, Aleut or Eskimo having one-quarter or more degree of Indian, Aleut or Eskimo blood.

(c) Tribe means any tribe, band, community, pueblo, or other group of Indians having an organization acceptable to the Secretary.

Titles Included in the Bill:

I.—Indian Revolving Loan Fund.
II.—Loan Guarantee and Insurance.
III.—Interest Subsidies & Administrative Expenses.

Examples of how the Act can benefit Alaska Natives:

1. (pp. 38–39) Example of how S. 2036 and S. 2237 could benefit Eskimos in Kotzebue. Testimony of Mr. Loesch—Assistant Secretary of the Interior for Public Land Management.

2. (p. 36) Honorable Harrison Loesch, Assistant Secretary of the Interior for Public Land Management: "S. 2036 is a part of the administration's policy to improve the economic condition of . . . and Alaskan groups."

Statement regarding treatment of Indians not living on reservations: Overton James, Governor of the Chickasaw nation speaking about past injustices because his people were excluded from the revolving loan fund because they did not live on reservations. Could correspond with Overton James to learn Congresses reaction, i.e. the subcommittee's.

S. 2237

History: S. 2237 was submitted to Congress July 12, 1971, 92nd Congress, 1st Session. Introduced in the Senate by Mr. Jackson (for himself and Mr. Allott) (by request). Read twice & referred to the Committee on Interior & Insular Affairs.

Definition in S. 2237:

(b) Indian tribe means any tribe, band, pueblo, group or community of Indians or Alaska Natives which is recognized by the Federal Government as eligible for Services from the Bureau of Indian Affairs. (see below*)

Dept. of Interior Report:

The Secretary of Interior (Rogers Morten) in his letter to President Nixon stated—

We recommend that the proposed bill be referred to the appropriate committee for consideration and that it be enacted.

The Office of Management and Budget has advised that there is no objection to the presentation of this proposed legislation from the standpoint of the Administration's program.

A copy of the letter was sent to the President of the Senate.

History of the IBD program:

The Indian Business Development Program had been carried on within the Bureau of Indian Affairs since August 1970. The IBDP was created by the BIA and is administered by the Bureau. It was created with a $3–4 million appropriation for fiscal year 1971. The funds were appropriated for fiscal 1971 as tribal development funds and have been used for such development through the IBDP.

DISCUSSION AS TO COMBINING THE TWO PROGRAMS (S. 2036 & S. 2237)

In the hearings there is recorded a discussion of the possibility of combining the two programs under one piece of legislation. The Assistant Secretary of the Interior Harrison Loesch in his testimony to the Senate Interior Committee on S. 2036 stated that the Dept. of Interior recommends a separation of the two programs. (reasons pp. 34 & 35)

SENATE HEARINGS (MICROFICHE NO. 8411–48)

Statement by Kyle, Hon. John H. Assistant Secretary for Congressional & Public Affairs Dept. of the Interior; accompanied by Dennis Drabelle, staff attorney, Office of Legislation: Robert Bruce, coordinator for legislation, BIA; and Charles Swallow, Division of Credit and Finance.

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*Continuation of definitions:

(a) Indian means any person who is a member of any Indian tribe, band, pueblo, group or community of Indians or Alaska Natives which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

(c) Reservation includes Indian reservations, public domain land occupied by Indians, former Indian reservations in Oklahoma, and land occupied by Alaska Native communities.

SENATE REPORT NO. 93-348 (MICROFICHE NO. 8443-20)

Committee on Interior and Insular Affairs, to accompany S. 1341. Ordered to be printed July 26, 1973. (May be cited as the "Indian Finance Act of 1973") The purpose of the bill is to provide to Indian organizations and individual Indians capital in the form of loans and grants that is needed to promote their economic development.

The Committee reported favorably on the bill S. 131 with an amendment and recommended that the bill as amended do pass.

History of S. 1341: S. 1341 is the Administration's proposal and was introduced by request by Senator Jackson, Senator Fannin and Senator Abourezk. Earlier in the session, Senator Jackson and Senator Abourezk introduced the Administration proposals from the 92nd Congress—S. 1013, the "Indian Financing Program of 1971" and S. 1015, the "Indian Business Development Program Act." A hearing on all three measures was held before the Subcommittee on Indian Affairs on May 31, 1973.

Because the language in S. 1341 was unclear in several places, the Subcommittee voted to delete the language of S. 1341 after the enacting clause and insert in lieu thereof the substantive provisions of S. 1013 and S. 1015, and ordered the bill reported to the full Committee on June 11, 1973. The full Committee approved S. 1341, as amended by the Subcommittee, with some further amendments on July 20, 1973.

Accompanying the bill is a letter from the Acting Secretary of the Interior, John C. Whitaker, to the President of the Senate Agnew:

We recommend that the proposed bill be referred to the appropriate committee for consideration and that it be enacted. . .The OMB has advised that enactment of this proposal would be in accord with the President's program.

A mentioned in the letter is the fact that the essence of the titles of the act are outlined in the President's message.

Included in the Report:

1. explanation of the bill as amended.
2. the administration's bill—the original S. 1341.
3. explanation of the administration's proposed bill.

Titles under S. 1341:

Title I—Indian Revolving Loan Fund.
Title II—Loan Guaranty and Insurance.
Title III—Interest Subsidies and Administrative Expenses.
Title IV—Indian Business Grants.

Senate Rpt. 93-348 provides an analysis of the Act.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., March 15, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a proposed bill. "To provide for financing and economic development of Indians and Indian organization, and for other purposes."

We recommend that the proposed bill be referred to the appropriate committee for consideration and that it be enacted.

This proposal consolidates two proposals of this Department in the 92d Congress—the Indian Financing Act of (Titles I and II of this bill) and the Indian Business Development Program Act (Title III of this bill). A sectional analysis of the proposal is contained in an Appendix to this letter.

TITLES I AND II

The essence of these titles was outlined by President Nixon in his Indian message of July 8, 1970:

"Economic deprivation is among the most serious of Indian problems. Unemployment among Indians is ten times the national average: the unemployment rate runs as high as 80-percent on some of the poorest reservations. Eighty percent of reservation Indians have an income which falls below the poverty line: the average annual income for such families is only $1,500. As I said in September of 1968, it is critically important that the Federal government support and encourage efforts which help Indians develop their own economic infrastructure. To that end, I am proposing the 'Indian Financing Act of 1970'.

This Act would do two things:

1. It would broaden the existing Revolving Loan Fund, which loans money for Indian economic development projects. I am asking that the authorization for this fund be increase from approximately $25 million to $75 million.

2. It would provide additional incentives in the form of loan guarantees, and interest subsidies to encourage private lenders to loan more money for Indian economic projects. An aggregate amount of $200 million would be authorized for loan guarantee and loan insurance purposes."

Inability to raise capital in effect freezes most Indians out of the American free enterprise system. We believe that, in conjunction with the Business Development Program established in Title III, the loan incentives offered in these titles will go far toward eliminating the chronic state of Indian poverty.

TITLE III

This title would revive and expand a grant program that was conducted by the Bureau of Indian Affairs during fiscal year 1971. Using funds appropriated as tribal development funds the Bureau aided individual Indians or tribes which sought to open or expand businesses. The grants provided needed capital for Indians unable, because of insufficient equity, to qualify for small business loans from public or private sources: supplements to business grants-in-aid from Government agencies or private foundations; and supplements to business loans. One example of the kind of problems this program can alleviate is that most Indians have been unable to take advantage of the 90 percent loan guarantee programs of the Small Business Administration because most private lenders have required a 100 percent guarantee for Indian loans. The Bureau used its grants to make up the different for this and similar types of financing.

Since in all essentials the grant program established in Title III will be identical to that operated by the Bureau in fiscal '71, the effectiveness of the latter augers well for the success of the Title III operation. As of March 31, 1972, Bureau grants had assisted in forming 237 new Indian-owned businesses and expanding 112 existing ones. These grants generated some $16.1 million from other financial sources. The Bureau received 770 applications for grants totaling $10.8 million, or more than triple the amount of money allocated for the program. The Bureau received inquiries about the program from throughout the Indian community. We consider this program to be a proven success and believe that, along with the other programs contained in this proposal, its enactment would lead to substantial Indian economic progress.

The Office of Management and Budget has advised that enactment of this proposal would be in accord with the President's program.

Sincerely yours,

JOHN WHITAKER,
Acting Secretary of the Interior.

HOUSE HEARINGS, OCTOBER 12, 1973 (MICROFICHE NO. H441-7)

Hearing before the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs. Ninety-third Congress. 1st Session on H.R. 6371, H.R. 6493, H.R. 9843, H.R. 10562 and S. 1341. (These bills may be cited as the "Indian Financing Act of 1973") To provide for financing the Economic Development of Indians and Indian organizations and for other purposes.

Statements:

Willie Hensley—President Alaska Federation of Natives.

Clarence Jackson—President Tlingit & Haida Central Council.

Robert Willard—Executive Director of the Tlingit and Haida Contractors Association.

John Kyle—Assistant Secretary of the Interior for Congressional and Public Affairs.

Act as relates to BIA services:

Hensley points out (pp. 168–70) that both the House and Senate versions condition benefits to Alaska Natives under the Indian Financing Act to continued eligibility for services from the Bureau of Indian Affairs (outlined in the following pages).

Tlingit & Haida eligibility under the revolving loan fund:

Clarence Jackson (p. 158) addresses the problem of no loans to tribes that already offer loans. T & H Central Council offers loans but on a limited basis & loans are small.

Discussion between Congressman Lujan & Mr. Jackson (p. 158) Congressman Lujan states that the Central Council was eligible for a loan from the Revolving Loan Fund, and could then establish itself as a relending organization. (Discussion outlined on the following page).

A supportive letter from the Acting Secretary of the Interior urging the House to favorably consider the Administration's proposal, is also included in the Hearings.

For write ups on the above mentioned bills, see the pages following of recorded Subcommittee discussion

Turning now to the bill, on the top of page 8, I want to get your view on what it means.

It says: "Loans guarantees are authorized to be made to individual Indians who are not members of or eligible for membership in an organization that is making loans to its members." Now, what do you construe that to mean? Bottom of page 7, top of page 8.

Mr. LOESCH. Senator Burdick, the purpose of that provision is to take into account the fact that some tribes have revolving loan programs of their own, in which they loan to their individual members.

If the tribe itself has a revolving loan program, what we would envision would be to support that viable program and allow the tribe to judge the validity of the proposed loan to its individual members.

Senator BURDICK. But this says, if the members are not eligible for membership, or nonmembers.

Mr. LOESCH. Well, if a particular tribe has a revolving loan fund of its own, then it would be making loans out of that fund to its members. If an Indian who is eligible for that kind of support from the tribe came to us for a loan, we probably wouldn't make it. I mean, under this provision we probably would not make it.

Instead, we would support the loan to the tribe of more funds for its own revolving loan fund so that it, in turn, could make the loan.

Senator BURDICK. That is right, but I am trying to get a situation where a loan is made to an individual who is not a member of the tribe, or never would be a member of the tribe. What situations are there? That is what the language says, "are not members of or eligible for membership in an organization that is making loans to its members" of the general tribe. What kind of a situation would that be?

Mr. LOESCH. Well, that would be a situation in a tribe that does not have such a revolving loan fund, and very few of them do.

For instance, let's just take the Utes. It is a very progressive tribe, but it doesn't have a revolving loan fund. Now, if one of its own members, individuals, had a business proposition that the Bureau felt was viable, that individual would be eligible for a loan from this revolving fund.

By the same token, so would the tribe if it had such a proposition.

Senator BURDICK. Is this applied to an individual Indian who is living off the reservation in one of the cities?

Mr. LOESCH. Yes, if a member of a federally recognized group. This would take care of Oklahoma country. Alaskan Natives situations where we don't have reservations. Any federally recognized Indian would be eligible.

Senator BURDICK. Mr. Chairman, that is all I have.

Mr. SWALLOW. I am Charles Swallow, Chief of Credit and Finance, Bureau of Indian Affairs.

In regard to Senator Burdick's question, we have had cases particularly up in the Dakotas where I worked at the agency where we might have had an Indian from, say, the Ocala Sioux Tribe who happened to be married to an enrolled member of the Standing Rock Sioux Tribe, and their credit program prohibited them from making a loan to him because he was considered the head of the household. So, therefore, although he is an enrolled member of the tribe, he wasn't an enrolled member of this particular tribe so therefore we felt maybe we could correct this situation. It is occurring frequently, and we thought maybe this would be another avenue to relieve that situation.

Senator BURDICK. OK.

Senator METCALF. Thank you very much.

I am just curious about the need for this legislation, Mr. Secretary. We have a revolving fund program underway with $27 million. What about loan guarantee and insurance programs?

Mr. LOESCH. We have no loan guarantee or insurance, loan insurance program at all, sir. The revolving loan fund is very, very useful and has been, but it just simply isn't anywhere near big enough to take care of the demand.

Senator METCALF. I am not talking about the authorization. I am talking about language of a bill. It would seem to me that if we just appropriated additional money or authorized more money in your revolving fund program, your present system could get underway. Now, tell us why we need to pass this legislation?

* * * * * * *

We also take exception in title I of section 101 that the loans to individual Indians can only be made to those who are not members in an organization which is already making loans to its members. In our case, the Tlingit-Haida people, we are in effect—this bill is denying individual loans entirely except through the central council. The central council is currently granting loans to any member who qualifies whether he lives in village or urban area. Because of our limited resources these loans are necessarily small and limited to the confines of our modest budget.

Therefore, we believe that individual Indians should also be eligible for loans.

* * * * * * *

Mr. MEEDS. Very good. Well, thank you both for your comments.

The gentleman from New Mexico.

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Mr. LUJAN. Yes. In your prepared statement, Mr. Jackson, you say that members of the tribe will not be eligible for loans because you have an organization that is doing that now. You also mentioned that the Contractor's Association is not eligible to receive funds. Do you not think that one of the ways to accomplish that would be for a loan to be made to the Central Council, and then the Central Council carry on its business as it is now? Would that not be more efficient?

Mr. JACKSON. I believe if it was clarified that this could be done, we would be agreeable to that.

Mr. LUJAN. I do not know exactly where it is, but it is my general impression that that activity would be permissible under the legislation in that area where we said it could lend to organizations who would then lend money. We discussed that section a little while ago.

* * * * * * *

STATEMENT OF STATE SENATOR WILLIE HENSLEY, PRESIDENT, ALASKA FEDERATION OF NATIVES, INC.

Mr. Chairman and members of the Committee, I appreciate this opportunity to appear today and testify on the Indian Financing Act of 1973, H.R. 6371, 10562 and S. 1341. I am here to express two simple positions on behalf of the Alaska Native people. First, we enthusiastically support the proposal reflected in the pending bills to establish a loan, loan guarantee and interest subsidy fund to benefit American Indian and Native people in exercising "responsibility for the utilization and management of their own resources" and obtaining "a standard of living from their own productive efforts" comparable to that of non-Native people. Second, we urge that any legislation adopted by Congress clearly and unequivocally provide that the benefits of the Act are available to Alaska Natives and the various business corporations created under the Alaska Native Claims Settlement Act.

I will not today go into the different pending bills in detail nor will I comment on some of the differences among those bills. However, I do want to comment on one specific provision of utmost importance to the Alaska Native people—the definition of "Indian," "tribe" and "reservation" in the pending bills. These terms are all defined in Section 3 of the pending bills. However, from our standpoint there is an important difference in the specific definitions in these bills. H.R. 6371 and 10562 specifically include Natives "as defined in the Alaska Native Claims Settlement Act" in the definition of "Indian", includes regional and village corporations in the definition of "reservation", and include Alaska Native villages and Native groups in the definition of "tribe". S. 1341 is, on the other hand, rather ambiguous in its application of Alaska Native groups. We strongly endorse the definitions contained in the House version of the legislation.

However, both the House and Senate versions condition benefits to Alaska Natives under the Indian Financing Act to continued eligibility for services from the Bureau of Indian Affairs. We do not believe the benefits of this Act should be tied to continued BIA services. We believe the loan, interest subsidy and grant provisions of this Act should continue to be available to Alaska Natives regardless of any possible change in BIA services.

The most important point I wish to make here today is that Congress should in no way discriminate against the Alaska Natives because we were successful in obtaining passage of the Alaska Native Claims Settlement Act. Many other Indian and Native groups have obtained settlements of their original land claims. Benefits under the Indian Financing Act should not depend on whether a particular tribe or group has obtained such a settlement, nor on the "generosity" of the particular settlement involved. Rather, all Indian and Native people should be treated equally; all should be eligible to share in the benefits of this Act.

Discrimination against the Alaska Natives is totally unnecessary to carry out the purposes of the Indian Financing Act. All versions of the pending bills require Indian groups to exhaust their own and other available commercial financial resources before seeking benefits under the Indian Financing Act. Consequently, if and when Alaska Native individuals or Native groups are found eligible for specific loans, grants, guarantees or interest subsidies under the Act, it will only occur in circumstances where the proceeds and benefits of the Alaska Native Claims Settlement Act are insufficient to provide financial resources through normal commercial channels. In such circumstances the Alaska Native will be in no way different from any other applicant for benefits under the Indian Financing Act.

Mr. Chairman, the Alaska Federation of Natives has had only a limited opportunity to study these proposals. It is quite possible that upon further study and review we might wish to suggest specific amendatory language for inclusion in the ultimate legislation. I hope the Committee will permit me to submit such proposals in writing in the near future.

Thank you.

H.R. 6371

In the House of Representatives, March 29, 1973, Mr. Saylor (for himself, Mr. Camp, and Mr. Zwach) introduced the following bill; which was referred to the Committee on Interior and Insular Affairs. (May be cited as the "Indian Finance Act of '73") To provide for financing and economic development of Indians and Indian organizations, and for other purposes.

Definitions, Sec. 3:

(b) "Indian" means any person who is a member of any Indian tribe, band, group, pueblo or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs and any "Native" as defined in the Alaska Native Claims Settlement Act. (85 Statute 688)

(c) "Tribe" means any Indian tribe, band, group, pueblo, or community, including Native villages and Native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

(d) "Reservation" includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act.

Titles under H.R. 6371:

Title I—Revolving Loan Fund.
Title II—Debt Service Payments.
Title III—Indian Business Grants.

H.R. 6493

In the House of Representatives, April 3, 1973, Mr. Culver introduced the following bill; which was referred to the Committee on Interior and Insular Affairs. (May be cited as the "Indian Financing Act of 1973") A bill to provide for the economic development of Indians, Indian tribes, and other Indian organizations, and for other purposes.

Definitions, Sec. 2:

(b) "Indian" means any Indian, Aleut, Eskimo having one-quarter or more degree of Indian, Aleut or Eskimo blood;

(c) "Tribe" means any tribe, bank, community, pueblo, or other group of Indians recognized by the United States;

Sections;

Sec. 3—Indian Revolving Loan Fund.
Sec. 4—Indian Loan Guaranty & Insurance.
Sec. 5—Appropriations.
Sec. 6—Tribal Bonds.

H.R. 9843

In the House of Representatives, August 2, 1973, Mr. Waldie introduced the following bill; which was referred to the Committee on Interior and Insular Affairs. (May be cited as the "Indian Finance Act of 1973") A bill to provide for financing the economic development of Indians and Indian organizations, and for other purposes.

Definitions, Sec. 3:

(b) "Indian" means any person who is a member of any Indian tribe, band, pueblo, group or community of Indians or Alaska Natives which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

(c) "Indian tribe" means any tribe, band, pueblo, group, or community of Indians or Alaska Natives which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

(d) "Reservation" includes Indian reservations, public domain land occupied by Indians, former Indian reservations in Oklahoma, and land occupied by Alaska Native communities.

Titles under H.R. 9843:

Title I—Indian Revolving Loan Fund.
Title II—Loan Guaranty & Insurance.
Title III—Interest Subsidies and Administrative Expenses.
Title IV—Indian Business Grants.

H.R. 10562

In the House of Representatives, Sept. 26, 1973, Mr. Bergland introduced the following bill; which was referred to the Committee on Interior and Insular Affairs. (May be cited as the "Indian Financing Act of 1973") A bill to provide for financing and economic development of Indians and Indian organizations, and for other purposes.

Definitions, Sec. 3:

(b) "Indian" means any person who is a member of any Indian tribe, band, group, pueblo, or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs and any "Native" as defined in the Alaska Native Claims Settlement Act. (85 Statute 688)

(c) "Tribe" means any Indian tribe, band, group, pueblo, or community, including Native villages and Native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

(d) "Reservation" includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act.

Titles under 10562:

Title I—Revolving Loan Fund.
Title II—Debt Service Payments.
Title III—Indian Business Grants.

S. 1341

In the House of Representatives July 30, 1973 referred to the Committee on Interior & Insular Affairs. (May be cited as the "Indian Financing Act of 1973") A bill to provide for financing the economic development of Indians and Indian organizations and for other purposes.

Definitions Sec. 3:

(b) "Indian" means any person who is a member of any Indian tribe, band, pueblo, group or community of Indians or Alaska Natives which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

(c) "Indian tribe" means any tribe, band, pueblo, group, or community of Indians or Alaska Natives which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

(d) "Reservation" includes Indian reservations, public domain land occupied by Indians, former Indian reservations in Oklahoma, and land occupied by Alaska Native communities.

Titles under S. 1341:

Title I—Indian Revolving Loan Fund.
Title II—Loan Guaranty and Insurance.
Title III—Interest Subsidies and Administrative Expenses.
Title IV—Indian Business Grants.

Passed by the Senate July 28, 1973.

HOUSE REPORT NO. 93-907 (MICROFICHE NO. H443-8)

Committee on Interior & Insular Affairs, to accompany H.R. 6371. March 13, 1974—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed. (May be cited as the "Indian Finance Act of 1974") Providing for financing and economic development of Indians and Indian organizations, and for other purposes.

History: Mr. Haley submitted the report 93-907. H.R. 93-907 is almost identical to 93-262 except for slight alterations in word order or choice of words. The Committee on Interior & Insular Affairs reported favorably on the bill H.R. 6371 with an amendment and recommended that the bill as amended do pass. The bill was introduced by Mr. Saylor for himself, Mr. Camp, and Mr. Zwach. The language of H.R. 9843, a similar bill by Mr. Waldie, was substituted for the language of H.R. 6371 and further amendment.

Definitions: For definitions see the description of H.R. 6341 in the previous write up of the House Hearings, Oct. 12, 1973. (Micro Fesh No. H441-7)

Title under H.R. 6371:

Title I—Indian Revolving Loan Fund.
Title II—Loan Guaranty & Insurance.
Title III—Interest Subsidies & Administrative Expenses.
Title IV—Indian Business Grants.
Title V—

The report provides an explanation of the bill and an analysis of H.R. 6371 as amended by the Committee.

A supportive letter from the Acting Secretary of the Interior urging the House to favorably consider the Administration's proposal, is also included in the Hearings. Accompanying the letter is a copy of the Administration's proposal and an explanation of that proposal.

Estimate of Current Credit Needs (BIA).—BIA estimates the current credit needs (1974) of Indians stand at $1.8 billion. (Total amount of the 4 Indian Reorganization Act funds is $28,000,000—far too short of need.)

Mr. Saylor (p. 7).—"If Indian people, both as tribal governments and individuals, are to become economically self-sufficient, the Federal Government will, necessarily, have to provide or stimulate this kind of assistance (capital in the form of loans or grants)."

H.R. 6371 became law, The Indian Finance Act of 1974.

CONGRESSIONAL RECORD: FINAL CONSIDERATION OF THE BILL

SENATE

A. Indian Financing Act of 1973.—July 28, 1973. C.R. Vol. 119, part 21, pp. 26425-26427.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 331, S. 1341.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior & Insular Affairs with an amendment to strike out all after the enacting clause and insert . . .

The amendment was agreed to. The bill was ordered to be engrossed for a third reading, read the third time and passed.

B. Indian Finance Act of 1974.—March 27, 1974. C.R. Vol. 120, Part 7, pp. 8386-8391.

Mr. Mansfield asked the Chair to lay before the Senate a message from the House of Representatives on S. 1341.

The Presiding Officer laid before the Senate the amendment of the House of Representatives to the bill (S. 1341) to provide for financing the economic development of Indians and Indian organizations, and for other purposes which was to strike out all after the enacting clause and insert . . .

Mr. Jackson made a statement in favor of this legislation and supporting the House amendments:

Mr. President, I have discussed these amendments with the ranking minority member, Mr. Fannin, and he concurs in my view that they are good additions to the Senate-passed bill. I think they will strengthen the measure and make it a more useful program for the benefit of our American Indian citizens.

Therefore, Mr. President, I move that the Senate concur in the amendment of the House to S. 1341.

The motion was agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the action by the Senate on S. 1341 earlier today be vacated and that the message again be laid before the Senate (it was done).

The Senate concurred with an amendment of the House suggested by Mansfield.

HOUSE

A. Indian Financing Act of 1974.—March 18, 1974. C.R. Vol. 120, part 5, pp. 26425–26427.

(The Senate bill was passed in lieu of the House bill after substituting for its language much of the text of the House bill.)

Mr. MEEDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6371) to provide for financing and economic development of Indians and Indian organizations, and for other purposes as amended.

Mr. Regula demanded that a second be required.

Mr. Meeds yielded himself time to speak. Part of his statement:

H.R. 6371 is administrative legislation designed to fill this largely unmet need. The subcommittee has stricken everything in H.R. 6371 and substituted in lieu the language of H.R. 9843 which is identical to S. 1341 as passed by the Senate.

Title V is a new title added by the subcommittee requiring the Secretary to offer a borrower and/or grantee under the bill management and technical assistance in his economic enterprise.

Supporting statements were made by Meeds, Haley, Taylor, Regula, and Zwach.

The SPEAKER. The question is on the motion offered by the gentleman from Washington (Mr. Meeds) that the House suspend the rules and pass the bill H.R. 6371, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. Meeds offered an amendment.

Strike out all after the enacting clause in S. 1341 and insert in lieu thereof the provisions of H.R. 6371, as passed by the House.

The amendment was agreed to. The Senate bill was ordered to be read a third time, and passed, and a motion to reconsider was laid on the table.

A similar bill (H.R. 6371) was laid on the table.

B. Indian Finance Act of 1974.—April 1, 1974. C.R. Vol. 120, part 7, p. 8925.

Mr. Meeds asked for unanimous consent to concur in the Senate amendment.

The Senate amendment to the House amendment was concurred in.

A motion to reconsider was laid on the table.

BIA's ADMINISTRATION OF THE INDIAN FINANCE ACT

PROBLEMS WITH BIA'S ADMINISTRATION OF THE INDIAN FINANCE ACT

I. Revolving Loan Fund: No Direct Loans.—CFR states that loans are to be made to eligible tribes and relending organizations, and corporations, cooperative associations, and partnerships, having a form of organization satisfactory to the Secretary, and to individual Indians and Natives who are members of tribes which are not making loans to its members and are not members of or eligible for membership in an organization which is making loans to its members.

Although direct loans to individuals are provided for in legislation (P.L. 93-262, Title I, Sec 101) and in law (CFR 25 1975 91.3 (a)), in practise such loans are not available to individuals. In fiscal year 1975, there was no machinery for them and as yet, no such machinery exists.

2. Revolving Loan Fund: Ineligibility of Tlingit & Haida Indians BIA is interpreting the following clause to mean that individuals who are members of a tribe that is making loans to its people are not eligible for funds under the Revolving Loan Program:

The fund shall be available for loans to Indians having a form of organization that is satisfactory to the Secretary and for loans to individual Indians who are not members of or eligible for membership in an organization which is making loans to its members: Provided that where the Secretary determines a rejection of a loan application from moneys borrowed from the fund is unwarranted—he may in his discretion, make a direct loan to such individual from the fund. (emphasis mine)

Southeast Agency believes that the word "loans" in the above phrase refers only to loans made available from moneys borrowed from the Revolving Loan Fund.

BIA states that because loans are available from Tlingit & Haida Central Council. Tlingit & Haida are not eligible for loans under the Revolving Fund.

3. Guaranteed and Insured Loans.—For the same reason, the existence of T. & H. Central Council's loan program. Tlingit and Haida Indians, according to the BIA, are not eligible for Quaranteed and Insured loans.

4. Indian Business Development Program.—Commissioner Thompson's ruling on the definition of "reservation" and the status of lands "near a reservation," as pertains to Alaska, excludes a number of Tlingit & Haida from programs under the Financing Act. The Commissioner limits the definition of reservation to include only ". . . land held by incorporated groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act."

Any other land, such as that held by Natives in an urban area, could at best be described as land "near a reservation." The Commissioner fails to define what is "near a reservation." In CFR 80.7, lands "near a reservation" are classified as second priority. In fiscal year '76, BIA has decided that there will be no funding for second priority applicants. Consequently, the BIA has indirectly excluded Tlingit & Haida living in municipal areas from the IBD Program.

INTERPRETATION OF THE ACT: SOUTHEAST AGENCY VERSUS BUREAU OF INDIAN AFFAIRS

August 10, 1976.

FRANK DUCHENEAUX,
Counsel, Indian Affairs Subcommittee, Interior and Insular Affairs Committee, House of Representatives, Washington, D.C.

DEAR MR. DUCHENEAUX: This is in reference to the problem we discussed over the phone, Thursday, August 5th.

Tlingit and Haida Central Council Southeast Agency questions the Bureau of Indian Affairs' Interpretation of the eligibility of Tlingit and Haida people to benefit under the programs created by the Indian Finance Act of 1974 (P.L. 93-262).

Southeast Agency's major complaint lies with the Commissioner's definition of reservation and his interpretation of the status of area "near a reservation." Section 401 of the Finance Act requires that to be funded an economic enterprise must be on or near a reservation. In the Commissioner's January 19, 1976 memo concerning the reservation status of areas in Alaska, the Commissioner limits the definition of reservation to include only ". . . land held by incorporated groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act." Any other land, such as that held by Natives in an urban area, could at best by described as land "near a reservation." The Commissioner fails to define what is "near a reservation." Besides which, businesses which are "near a reservation" are considered as second priority and are not funded, as stated in the Juneau Area Director's memo of April 14, 1976 regarding eligible applicants for the Indian Business Development Program grants.

10. [an applicant] Must be located on or near a reservation.

If near a reservation can only be considered as a second priority. (FY 76 there will be no funding for 2nd priority applicants—25 CFR 80.7)

Consequently, Natives living in or near an urban area are discriminated against because they do not receive funding under the Indian Business Development Program.

As stated in the Juneau Area Director's memo of January 26, 1976—

> Alaska has until now [referring to the issuance of Morris Thompson's January 19th statement regarding reservation status in Alaska] been considered to have reservation status for all cities, towns, or villages wherever our Native people found suitable conditions in which to live.

Clarence Antioquia, the Juneau Area Director, further points out: "Just because an Alaskan Native lives in Juneau, Sitka, Kodiak, Anchorage, or Fairbanks . . . [does not] mean he has unlimited resources at his disposal or can borrow money in unlimited amounts for what he might wish or need." The BIA and other government programs have always included urban Natives in the definition of reservations because they viewed the needs of the urban Natives to be just as significant as those of the rural areas. Urban Tlingit and Haida people should not be excluded from the Indian Business Development Program on the basis that they do not live on a reservation.

In essence the Commissioner has excluded the Tlingit and Haida living in municipal areas from all the programs created under the Act. In his January 19th memo, he states that—

> To carry out this purpose the Act requires in Section 401 pertaining to grants that the economic enterprise to be funded must be near reservations, *which is also the regulatory requirement for all programs under the Act.* An enterprise location in a non-reservation area must be near a reservation and have a direct economic benefit to a qualified reservation area. [Emphasis mine.]

In addition to the limitations of failing to define "near a reservation", and not funding 2nd priority areas, the Commissioner has further reduced the eligibility of urban Tlingit and Haida by stipulating that their businesses must have a "direct economic benefit" to the reservation area. In the 1975 Code of Federal Regulations 80.4, it is required that the enterprise must ". . . make an economic contribution to a nearby reservation by providing employment to tribal members residing thereon or by expanding a portion of its income for materials or services on the reservation." The Juneau BIA Credit and Finance office has interpreted the Commissioner's "direct economic benefit" to be more stringent than the CFR's "economic contribution."

In researching the legislative history of the Act, I did not get the impression that Congress intended rural Natives to benefit to the exclusion of Natives living in or near municipal areas. Senate bill 2237 to establish an Indian Business Development Program, from which Title IV of HR 6371 derives, defines reservation as pertains to Alaska Natives as ". . . land occupied by Alaska Native communities." The Act does not define communities, perhaps, to insure a broad interpretation of the term. In the record of the October 12, 1973 Hearings of the House Subcommittee on Indian Affairs, there is a discussion between Congressman Lujan and Mr. Jackson regarding the eligibility of all Tlingit and Haida to receive loans under the Revolving Loan Fund Program (p. 166). Also, if Congress chose to treat the Natives living in municipal areas as second priority, it would not have been necessary to define eligible tribes as meaning "any tribe, band, group, pueblo, or community, including, Native villages and Native groups (*including corporations organized by Kenai, Juneau, Sitka, and Kodiak*) as defined in the Alaska Native Claims Settlement Act . . ." (emphasis mine). Aside from the fact that the four municipal areas were specifically included, it would appear that all Tlingit and Haida are eligible for consideration if only because they form a trfibe recognized by the Federal Government. From the above evidence it does not appear that Congress intended to distinguish between rural and municipal Natives in Alaska.

Another complaint that Southeast Agency has concerns the BIA's interpretation of the following clause in Section 101, Title I—Indian Revolving Loan Fund:

The fund shall be available for loans to Indians having a form of organization that is satisfactory to the Secretary *and for loans to individual Indians who are not members of or eligible for membership in an organization which is making loans to its members:* Provided that where the Secretary determines a rejection of a loan application from monies borrowed from the fund is unwarranted—he may in his discretion, make a direct loan to such individual from the fund. (emphasis mine).

The BIA has interpreted the word "loans" to refer to any loans and therefore has advised that no loans are available to members of the Tlingit and Haida Tribe because the T&H Central Council has a loan program of its own. (The Central Council is currently considering abolishing its loan program so that Tlingit and Haida people will be eligible for loans (both direct and guaranteed) under the Finance Act. T&H Central Councils' Business Loan Program resources are nearly depleted, and loans have always been limited to $6,000 per individual. The Council believes that our people would benefit more under the programs of the Indian Finance Act.) But the problem was discussed before the House Committee on Indian Affairs October 12, 1973. I have enclosed a copy of the discussion between Congressman Lujan and Mr. Jackson. Congressman Lujan believed that the Central Council was eligible for a loan from the Revolving Loan Fund, and could then establish itself as a relending organization. Southeast Agency feels that the BIA has misinterpreted the above underlined clause, and believes rather that the word "loans" refers to "loans" borrowed from the Revolving Loan Fund.

In speaking with various credit officers in the Bureaus' Area Credit & Finance Office, I got the impression that the Bureau in Alaska interprets the act as an equalizing agent giving the rural Natives opportunities which Natives in municipal areas already have access to. Although Natives in urban areas can readily apply to such funding sources as S.B.A., banks, OMBE, etc., this does not necessarily mean they receive the funds they need. In speaking with various people connected in making business loans in the Juneau area, none were able to give a favorable response concerning Tlingit applicants. Southeast Agency does not believe the act is designed to equalize opportunities between rural and urban Natives in Alaska, rather that the Act was designed to develop and utilize Indian resources to the extent that the Indians "enjoy a standard of living . . . comparable to non-Indian neighbors," Urban Tlingit and Haida Indians do not share a comparable standard of living with their neighbors and as members of the Tlingit and Haida Tribe, they should be considered equally along with rural Natives for benefits under the Indian Finance Act.

Any help you can give in helping us understand the intentions of Congress as relates to Tlingit and Haida eligibility to programs under the Finance Act would be appreciated.

Please find enclosed pertinent material relating to the BIA's interpretation of the Indian Finance Act. If you have any questions, please contact me at 907-586-7134.

Thank you, Frank, for looking into this.

Sincerely yours,

JOSEPH G. WILSON,
Native Agency Director.
LILLIAN V. PETERS,
Research Assistant.

APPENDIX II

Additional Material Submitted for the Record by Raymond E. Paddock, President, Tlingit and Haida Central Council

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EXHIBIT A

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
Juneau, Alaska, August 30, 1976.

Mr. RAYMOND E. PADDOCK, Jr.
President, Tlingit and Haida Central Council, 130 Seward Street, Room 412, Juneau, Alaska

DEAR RAY: This is in response to Juanita Corwin's recent requests of how the Juneau Area views the Tlingit and Haida Central Council as it relates to the definitions of P.L. 93–638. Specifically, she asked if we consider the Central Council of Tlingit-Haida Indians of Alaska as a "Tribe" or a "Tribal Organization."

We acknowledge that the CCTHIA was authorized and established pursuant to Public Law 152 of the 74th Congress of June 19, 1935 and Public Law 89–130 of August 19, 1965. For the purposes of those Acts, the United States Government (through the Department of the Interior and Bureau of Indian Affairs) has officially recognized the CCTHIA as the Tribal Governing Body in all matters relating to the judgment funds which the United States holds in trust for the Tlingit and Haida Indians of Alaska. This recognition and trust relationship includes Secretarial (or his Designee's) approval of tribal budgets and attorney contracts.

Based on this historic recognition and relationship, we recognize the Tlingit and Haida Central Council as the tribal governing body of the Tlingit and Haida Tribes of Alaska for the purposes of P.L. 93–638.

Also included in the definition of "Indian Tribe" in P.L. 93–638 is ". . . , *including any Alaska Native Village* (italics added) or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat 688) which is Federally recognized as eligible by the United States Government through the Secretary for the special programs and services provided by the Secretary to Indians because of their status as Indians." We have difficulty in understanding the rationale and propriety of including regional profit making corporations and village profitmaking corporations in the definition of "Indian Tribe", however, that is not the major issue at this particular time. What is at issue, however, is the inclusion of "any Alaska Native Village" in the definition.

We do feel the inclusion of "any Alaska Native Village" in the definition is appropriate. Similar to our recognition of the Central Council, the Bureau has also historically recognized villages as "tribes" eligible for many of the ". . . special programs and services provided by the Secretary to Indians because of their status as Indians." Villages have been eligible and received grants under the Bureau's Tribal Government Development Program, Federal Revenue Sharing program, Law Enforcement Assistance Act and other programs. More importantly, however, is the fact that villages have historically performed substantial governmental functions through their village councils. Inasmuch as "any Alaska Native Village" is included in the current definition of "Indian Tribe" and nothing in the Act qualifies or limits their status, our interpretation is that villages are also tribes equal in status to the tribal status of the Central Council. Based on this interpretation, we have concluded that, for the purposes of P.L. 93–638, if the Central Council wishes to contract to provide services to villages within Southeast Alaska, the provisions of Subpart 271.2(q) applies, specifically the portion that reads ". . . provided, that a request for a contract must be made by the Tribe that will receive services under the contract; provided further, that in any case where a contract is let to an organization to perform services benefiting more than one Indian Tribe, the approval of each such tribe shall be a prerequisite to the letting of such contract."

p.220 blank

We recognize that under the current definition, individual Alaska Natives could conceivably be members of four or more tribes, for instance in Southeast Alaska.

1. Central Council of Tlingit and Haidas of Alaska.
2. Sealaska Corporation.
3. A village corporation organized pursuant to Section 8A of ANCSA (85 Stat. 68a).
4. An IRA organization created pursuant to Section 16 of Alaska Reorganization Act (49 Stat. 1250).

We doubt seriously that the drafters of P.L. 93-638 contemplated this as a potential problem. Regardless, the definition is in the statute and regulations and therefore until the statute is amended (which we firmly believe should be) we do not feel we have administrative discretion to amend the definition by eliminating any entity currently defined and therefore must abide by it.

We hope this letter clarifies how we view the CCTHIA as it relates to P.L. 93-638.

Sincerely yours,

CLARENCE ANTIOQUIA,
Area Director.

EXHIBIT B

WEISSBRODT & WEISSBRODT,
Washington, D.C., March 28, 1972.

Hon. JOHN O. CROW,
Deputy Commissioner, Bureau of Indian Affairs, Department of the Interior, Washington, D.C.

DEAR MR. CROW: This is to request reconsideration of your action approving the document entitled: "Briefing and Recommendations Regarding Tlingit and Haida Agreement," prepared by Mr. Calvin N. Brice, Contract Advisor, and submitted to you under date of January 14, 1972. A copy of this document, marked "Appendix A," is attached.

The document contains two conclusions, critical to the ultimate recommendation, which are plainly erroneous.

The first is that Congress has not recognized the Central Council as the governing body of the Tlingit and Haida Indians.

The second is that the Alaska Native Brotherhood qualifies as "Indian" under the "Buy Indian Act," 25 U.S.C. 47, and, inferentially, as a "tribal authority" under the "Tribal Direction of Bureau Employees Act," 25 U.S.C. 48, and the regulations issued pursuant to these Acts, 20 BIAM 4 and 5.

THE CENTRAL COUNCIL

While it is true that the Act of August 19, 1965 (79 Stat. 543), which provided for the organization of the Central Council under rules of election approved by the Secretary of the Interior, stipulates that this body "shall be the official Central Council of the Tlingit and Haida Indians for purposes of this Act," it is not true that the authority of the Council was intended by either the Congress or the Department of the Interior to be limited, as Mr. Brice believes, to matters "related to [the Tlingit and Haida] claim against the United States."

Nor is it true that the status of the Central Council as the general governing body of the Tlingit and Haida Tribes rests solely on the 1965 act, although, in light of its legislative history, that act would suffice to establish it as such.

Two subsequent acts of Congress, together with their legislative histories, establish the status of the Central Council beyond any legitimate doubt. These are the Act of July 13, 1970 (84 Stat. 431), providing for the disposition of the Tlingit and Haida judgment funds, and the Act of December 18, 1971 (85 Stat. 688), providing for overall settlement of the Alaska Native claims.

1965 ACT

Anyone who is familiar with the circumstances that necessitated the Act of August 19, 1965 (79 Stat. 543), which amended the Tlingit and Haida jurisdictional act of June 19, 1935 (49 Stat. 388), cannot be exposed to the present situation without experiencing a strong sensation of deja vu. The 1965 act was born of, and was intended to lay to rest, precisely the controversy that the Alaska Native Brotherhood is now attempting to renew.

The document submitted to you by Mr. Brice observes that: "The Alaskan Native Brotherhood has vigorously complained that they should be given an equal opportunity [with the Central Council] to negotiate for Indian involvement contracts at the Southeast Alaska Agency." It also suggests that the status of the Central Council as the general governing body of the Tlingit and Haida Tribes might somehow be questionable because "several of the Tlingit and Haida Villages are organized under the Indian Reorganization Act with tribal governments authorized by section 16 thereof."

Reporting, by letters of March 16 and March 10, 1965, to the Chairmen of the Senate and House Interior Committees, respectively, on the need for the 1965 legislation, the Undersecretary of the Interior said in part:

> Because the 1935 act emphasized the separateness of their native communities, the Tlingit and Haidas have found it exceedingly difficult within the provisions of the act to form an organization which can represent them in claims matters. Section 7 of the 1935 act provides for the establishment of a central council, but does not describe any procedures for setting up such an organization and restricts the authority of this body to the compilation of an overall roll. *In the late 1930's the Alaska Native Brotherhood attempted to designate itself as the central council, but was restrained from doing so by the Department of the Interior because the membership of the brotherhood was not limited to Tlingit and Haida Indians.* The present body calling itself the central council grew out of a meeting organized at Wrangell in 1941 for the purposes of selecting a claims attorney. It has never been certain of its authority, nor has this Department, and it has used several different names during its 23-year history.
>
> * * * * * * *
>
> We feel that the substitution of the proposed new language for sections 1, 7 and 8 of the 1935 act will provide much greater administrative flexibility for this Department and for the Indians in programming a Tlingit and Haida award. *Furthermore, it will create a representative tribal governing body with all the authority necessary to work with the Bureau of Indian Affairs and with the smaller organized groups of Tlingits and Haidas. The absence of any such body has greatly handicapped both the Bureau and the Indians during the past 30 years.* (Emphasis supplied.)[1]

At the hearings before the House Subcommittee on Indian Affairs on the bill that eventuated in the 1955 act, Congressman Haley, chairman of the subcommittee, asked the following question of Interior's principal witness, Mr. Graham E. Holmes (then Assistant Commissioner for Legislation, BIA), and received the following answer:

> Mr. HALEY. I want to know, Mr. Holmes, the urgency of this matter. Is there some overriding urgency involved here? I want to know is this an organized tribe? Is there somebody we can deal with here?
>
> I understand there are about 15 different clans or whatever you have here and as far as I have been able to find out, there is no legal organization [with] which the Bureau of Indian Affairs may deal. I want to hear something along that line.
>
> Mr. HOLMES. That is one of the problems involved. Now, under the present law, in the 1935 act, there is a provision for a central committe but there is no provision in the act for arriving at or determining how the central committee is to be made up.
>
> *There is an organization which we feel is representative of the Tlingit and Haida Indians generally* but any time a group of these people band together they call themselves the central committee and they apparently can speak and have as good a claim to being the central committee as the group that we feel is more representative. *This proposed bill cures this situation because it sets up a method of selecting a representative group which can be dealt with and can be recognized as representing the Tlingit and Haida people generally*, whereas under the present law there is not any

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[1] Letters reprinted in *Hearings on H.R. 874 Before the Subcomm. on Indian Affairs of the House Comm. on Interior and Insular Affairs*, 89th Cong., 1st Sess., ser. 4, at 2 and 117 (to chmn. Aspinall) and 110 (to chm. Jackson) (1965).

> way to determine how the central committee is to be selected and there is really no official organization that is organized under any of the statutes of the United States with a recognizable organization. (Emphasis supplied.)[1]

The Senate Report (S. Rept. No. 159, 89th Cong., 1st Sess. (1965)),[2] which accompanied the bill that eventuated in the 1965 act, describes the need for the legislation in part as follows:

> Because the 1935 law did not specify how the central council would be established and function, *no recognized representative tribal governing body has existed*, and this has been a severe handicap to the tribe and to the Bureau of Indian Affairs in arriving at a consensus of how the judgment should be used. (Emphasis supplied.)

The House Report (H. Rept. No. 521, 89th Cong., 1st Sess. (1965))[3] notes that the 1965 legislation was intended to amend the 1935 act in three principal respects:

> 1. Tlingit or Haida Indians will be defined as persons of Tlingit or Haida blood who reside in communities in the United States or Canada.
> 2. *The existing Central Council of the Tlingit and Haida Indians is recognized*, provided its future members are elected pursuant to rules and regulations found by the Secretary of the Interior adequate to assure fair representation of the Tlingits and Haidas wherever they may live in the United States or Canada
> 3. The council is authorized to prepare plans for the use of the judgment money, including per capita distribution, and the Secretary of the Interior is authorized to prepare a roll of persons of Tlingit or Haida blood residing in various communities or areas of the United States or Canada on the date of the act. Actual use or distribution of the funds will, however, await a further act of Congress, except for those needed for organizational, administrative and litigation expenses, and the like. (Emphasis supplied)

While it is undisputed that the principal focus of the Congress and the Department of the Interior in 1965 was on enhancing the organizational capacity of the Tlingit and Haida Indians to prosecute their claims against the Government and to administer the anticipated proceeds, it is equally clear that it was intended and contemplated that the Central Council provided for by the 1965 act, when organized in accordance with the requirements thereof, was to be the recognized governing body of the Tlingit and Haida Indians for general purposes, and not just for those related to their claims.

No other conclusion can be squared with the history of the 1965 act.

That history also demonstrates beyond cavil that the act was understood and intended 1) to superimpose the Central Council as a regional governing body over Tlingit and Haida villages and communities without regard to whether they had previously organized under the Indian Reorganization Act,[1] and 2) to settle, once and for all, the issue of what organization would be recognized as representative of the Tlingit and Haida Tribes as a whole, which issue had long been held in contention by the Alaska Native Brotherhood.

Following enactment of the 1965 act, the Central Council organized under rules of election approved by the Secretary of the Interior and a constitution. Copies of these documents, marked "Appendix B" and "Appendix C," respectively, are attached hereto.

As can be seen from the rules of election, the Central Council is a democratically elected body, truly representative of all the Tlingit and Haida Indians.

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[1] *Hearings*, cited in preceding note, at 16.

[2] Reprinted in *Hearings, supra*, at 108 *et seq.*

[3] Reprinted in *Hearings, supra*, at 115 *et seq.*

[1] Twelve of the 19 communities presently eligible to elect delegates to the Central Council were organized at one time or another under the Indian Reorganization Act. The IRA organizations in most, if not all, of these communities have been dormant for years, and most, if not all, of these communities, together with the other seven communities presently represented on the Central Council, are now organized under community constitutions structuring them as constituent parts of the Central Council. See Resolution No. 68-69 C.C.-2 of the Central Council, and model community constitution, reprinted in *Hearings on S. 2628 and S. 2650 Before the Senate Subcomm. on Indian Affairs of the Comm. on Interior and Insular Affairs*, 91st Cong., 2nd Sess., at 33 *et seq.* (1970).

The functioning organs of community government in most, if not all, of the 19 communities presently represented on the Central Council are community councils established under constitutions similar to the model.

Article I of the Constitution of the Central Council provides:

> The functions of the Central Council of the Tlingit and Haida Indians of Alaska shall be to serve as the general governing body of the Tlingit and Haida Indians of Alaska, to promote their welfare, and to exercise the powers granted by the Act of June 19, 1935 (49 Stat. 388), as amended by the Act of August 19, 1965 (79 Stat. 543), and such other powers as it may lawfully exercise or be granted.

Section 1 of Article V in part provides:

> Subject to applicable laws and regulations of the United States, the Central Council shall have full powers to govern, conduct and manage the affairs and property of the Tlingit and Haida Indians of Alaska, including, without limitation, the following:
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> * * * * * * *
>
> (b) To negotiate and enter into contracts with persons and entities of every kind and description, public and private;
>
> * * * * * * *
>
> (f) To consult with and advise any and all persons, officers, and entities, public and private, concerning subjects and matters affecting the interests of the Tlingit and Haida Indians of Alaska.
>
> (g) To charter or otherwise authorize and provide for the organization of subordinate groups or entities to perform governmental or proprietary functions for the Tlingit and Haida Indians of Alaska, and to delegate to such subordinate groups or entities such powers as it shall decide under such rules and regulations and subject to such limitations and conditions at it shall prescribe;
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> * * * * * * *

The Central Council has been operating under these organic documents for several years with the full knowledge and approval of the Congress and the Department of the Interior.

1970 ACT

The 1965 act stipulated, should the Tlingit and Haida recover a judgment against the United States, that the funds appropriated to pay the same should "not be available for advances, except for such amounts as may be necessary to pay attorney fees, expenses of litigation, organizational, operating and administrative expenses of the official Central Council, and expenses of program planning, until after legislation has been enacted that sets forth the purposes for which said funds shall be used."

In January 1968, the Tlingit and Haida recovered a judgment against the United States in the total amount of $7,546,053.80, and Congress appropriated funds to pay this judgment in July of that year.

Bills providing for the use and disposition of the judgment funds were introduced in both houses of Congress in 1969, and extensive hearings were held, particularly by the Senate Subcommittee on Indian Affairs, in 1970.[1]

By testimony, written communications, and the submission of exhibits for the record, the President of the Central Council thoroughly informed both the Senate and House subcommittees about the organization, operations, and accomplishments of the Central Council.

Writing on March 6, 1970, to Senator McGovern chairman of the Senate subcommittee, he pointed out:

> The Central Council functions as the general governing body of the Tlingit and Haida Indians. The Council was recognized and established as an official organ for the governance of the Tlingit and Haida Indians by an act of Congress approved in 1965. This act required the Council to prepare and submit for approval to the Secretary of the Interior a set of rules for the election of delegates that would insure that the Council would be representative and democratic. The Rules of Election formulated by the Council and approved by the Secretary in 1966, together with the Constitution of the Council, are the principal organic documents of the Tlingit and Haida Indians. Copies of these documents are attached.

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[1] *Hearings on S. 2628 and S. 2650 Before Senate Subcommittee on Indian Affairs of Comm. on Interior and Insular Affairs*, 91st Cong., 2nd Sess. (1970).

> The Rules, among other things, designate the communities eligible to elect delegates to the Central Council (there are 18 such communities at the present time), and prescribe the terms of delegates, the qualifications of electors, the representational formula, and the duties of local election officials. They also set out the procedures for the nomination of candidates, for the registration of voters, for the conduct of elections, and for the casting of absentee ballots.
>
> *The Constitution establishes the Central Council as the general governing body of the Tlingit and Haida Indians* and provides that agreeably to the laws and regulations of the United States, it shall have, among others, the powers to acquire and dispose of property; to enter into contracts; to borrow and raise money; to employ persons to render professional, technical and other services; to authorize the use and expenditure of funds belonging to the Tlingit and Haida Indians; and to authorize and provide for the organization of subordinate entities to perform governmental and proprietary functions. (Emphasis supplied)[1]

Commenting on the Senate bills, as Acting Secretary of the Interior, Russell E. Train observed that:

> The 1935 Act . . . was further amended by the Act of August 19, 1965 (79 Stat. 543), to provide for a Central Council to represent the Tlingit and Haida Indians.
>
> * * * * * * *
>
> The Central Council of the Tlingit and Haida Indians of Alaska is presently composed of delegates from 18 communities with representative populations of Tilingit and Haida Indians.[1a]

And the Department of the Interior itself supplied Congress, among the material submitted with the Acting Secretary's comments, Resolution No. 68–69 C.C.-2 of the Central Council, calling for the organization or reorganization of the Tlingit and Haida communities as constituent parts of the Central Council, and the model community constitution suggested for this purpose by the Central Council.[2]

Constitutions along the lines of the model have since been adopted by most, if not all, of the communities represented on the Central Council. It is the Community Councils organized in this manner, as constituent and subordinate parts of the Central Council, that are now functioning as the general governing bodies of these communities.

Having thoroughly reviewed the organic documents, structure, operations and achievements of the Central Council, the Interior Committees of both houses of Congress filed reports to accompany the judgment fund distribution bills that unequivocally set forth their understandings of the status of the Central Council.

The Senate report states, without qualification:

> A 1965 statute authorized a Central Council *as the governing body of the Tlingit and Haida Indians.* (Emphasis supplied)[3]

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[1] Letter is reprinted in *Hearings* cited in last previous note, at 53–55.

[1a] Letter of December 19, 1969, to Senator Jackson reprinted in *Hearings, supra*, at 2-4.

[2] *Hearings, supra*, at 33–36.

[3] S. Rep. No. 91–848, 91st Cong., 2d Sess., 1, (1970).

It is noteworthy that the Senate Committee was so impressed by the organization and achievements of the Central Council that it concluded the Council was fully capable of managing the funds and affairs of the Tlingit and Haida Indians without supervision by any outside agency, and reported a bill authorizing use of the judgment funds by the Council from which the conventional requirements of Secretarial oversight had been purposefully omitted. The Committee stated:

> The general pattern that has been used for most tribes in recent years when per capital distributions were not contemplated is to authorize the money to be used for any purpose authorized by the tribe and approved by the Secretary of the Interior after the Congress is satisfied that the tribe's general plans are sound. However, in the case of the Tlingit and Haidas, the Committee has stricken the language which would make the tribal plans subject to being "approved by the Secretary of the Interior." These Indians have demonstrated that they are capable of managing their own affairs. They have developed sound plans for the use of their judgment funds and the Committee believes they can carry out those plans without any oversight by the Secretary. S. Rep., *supra*, 2.

It is also noteworthy that the impetus for freeing the Central Council from Secretarial oversight developed within the Committee itself, without urging by representatives of the Central Council. Indeed, though they agreed in principle with the approach of the Committee, the leadership of the Council did not advocate the bill that the Committee recom-

The House report states, without limitation:

> Under a 1965 statute a Central Council was organized as the governing body of the Tlingit and Haida Indians, and it has been functioning effectively since then. (Emphasis supplied)[4]

In light of what preceded the filing of these reports, the use of the definite (and exclusive) article "the," in the phrases "the governing body," used therein was clearly considered and intentional.

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mended (and the Senate subsequently adopted), because they were concerned that such legislation would require considerably more time to obtain than a conventional judgment fund distribution act.

Ironically, as it turns out, one of the reasons cited by the Council leadership for discounting any urgent need for freedom from Secretarial oversight was that it was anticipated that subjection to such oversight would not significantly impair the Council's ability to function. *E.g., Hearings on S. 2628 and S. 2650 Before Sen. Subcomm. on Indian Aff's of Comm. on Interior and Insular Affairs*, 91st Cong., 2d Sess., at 55 and 73, (1970).

On March 26, 1970, following the hearings on the Tlingit and Haida judgment fund distribution bills, Senator McGovern, chairman of the Senate Subcommittee on Indian Affairs, and Senator Gravel, addressed a letter to the Comptroller General in which they made the following observation and inquiry:

> Law and tradition have it that all Indian settlements provide for Secretarial super- tribes have demonstrated beyond reasonable doubt that they are clearly able to manage by restrictions as to the type of securities purchased and the backing thereof. While this policy is a matter for Congress to solve, one question is, "What evidence is there that no departures from this blanket policy should be made even where particular tribes have demonstrated beyond reasonable doubt that they are clearly able to manage their their own financial affairs?" Letter reprinted in *Hearings, supra*, 92–93.

The General Accounting Office responded to the inquiry as follows:

> We considered the question raised as to whether there is evidence that no departures should be made from the present policy which requires supervision of the management of Indian settlements by the Secretary of the Interior even where particular tribes have clearly demonstrated that they are able to manage their own financial affairs. The requirement for Secretarial supervision has been expressed in each of the individual acts that authorize the disposition of funds resulting from judgments of the Court of Claims or awards of the Indian Claims Commission.
>
> In June 1970, we requested the views of the Secretary of the Interior on the need to continue Secretarial supervision over settlement funds. In August 1970, the Assistant Secretary for Public Land Management advised us that:
>
> > "The Department's policy, with reference to supervision of judgment and award funds in the hands of Indians, is that it will be exercised in direct proportion to needs of an Indian tribe for such supervision of its investment program. There are some tribes, such as the Tlingit-Haida, that have clearly demonstrated their financial responsibility and it is clear that they will require only a very slight Secretarial supervision of their investment program. We feel that the provision in the disposition bills is one that offers protection to a tribe as well as carries out the trust responsibility of the United States to the Indians. If a tribe is carrying out a responsible program, and most of them are, we cannot understand why they would seriously object to a review by this Department since such a review would only serve to lend credibility to the investment program carried on by an Indian tribe."
> >
> > * * * * * * *
> >
> > "This Department will continue to follow the policy of recommending language in judgment disposition bills that will give the Secretary the authority to supervise tribal investment programs, since we clearly believe that this is part of the trust responsibility to the Indians that has been placed in this Department."
>
> In March 1970, the President of the Central Council of Tlingit and Haida Indians testified before the Senate Subcommittee on Indian Affairs concerning legislation being considered to authorize the disposition of judgment funds awarded his tribe by the Court of Claims. The Council President, when questioned about the preparation of the plan for the disposition of the judgment funds, indicated that the plan was developed independently by the tribe.
>
> He stated that BIA representatives were invited to be present at meetings of the Tribal Council, but that the Council considered the proper relationship of BIA toward the tribe to be advisory, and that the BIA representatives participated in the meetings only when asked for assistance. He stated further that the planning process, the allotment of funds, and all of the types of programing were a result of the Council's efforts. This statement by the President of the Council is consistent with the Department's statement as to the degree of supervision exercised for particular tribes.
>
> Concerning the need for continuing Secretarial supervision of the management of Indian settlements, our review provided no evidence that departures from this blanket policy could not be made in cases where particular tribes have clearly demonstrated that they are able to manage their own financial affairs. We are not in a position to express an opinion as to the competency of individual tribes to manage their own financial affairs, but it is conceivable that, at some point in time, individual tribes could reach a point of competency which would enable them to do so.
>
> Our review produced no evidence which would indicate that a departure from the policy of Secretary supervision could not be made—if authorized or permitted by law—in cases where particular tribes have clearly demonstrated that they are able to manage their own affairs. Any changes in the current policy would be a matter for consideration by the Congress. G.A.O., Draft Report Responding to Letter of 3/26/7) from Sen. McGovern, et al. to Comptroller General, at 25–27 (undated).

[4] H.R. Rep. No. 91–881, 91st Cong., 2d Sess., 1 (1970).

Again and again, in connection with its consideration of proposals to settle the overall claims of the Alaska Natives (which culminated in the Alaska Native Claims Settlement Act of December 18, 1971), the attention of Congress was called to the structure and activities of the Central Council as the general governing body of the Tlingit and Haida Indians.[1]

Testifying before the Senate Interior Committee on April 29, 1971, the President of the Central Council referred again to the fact that the Central Council is the general governing body of the Tlingit and Haida Indians, and was granted leave by the chairman to submit a sketch of the organization and accomplishments of the Council for the record. Thereafter, he advised the chairman by letter of May 7, 1971, that the additional material he had desired to present was contained in a document entitled: "Alaska Native Land Claims and Post Settlement Planning," already a part of the record.

The document referred to is printed in Hearings on S. 35, et al., Before Sen. Comm. on Interior and Insular Affs., 92d Cong., 1st Sess., pt. 1, 357-361 (1971), and canvasses the organization and activities of the Central Council as the general governing body of the Tlingit and Haida Indians.

Section 7 of the Alaska Native Claims Settlement Act of December 18, 1971, in part provides:

> For purposes of this Act, the State of Alaska shall be divided by the Secretary within one year after the date of enactment of this Act into twelve geographic regions, with each region composed as far as practicable of Natives having a common heritage and sharing common interests. In the absence of good cause shown to the contrary, such regions shall approximate the areas covered by the operations of the following existing Native associations:
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> * * * * * * *
>
> (10) Tlingit-Haida Central Council (southeastern Alaska, including Metlakatla);
>
> * * * * * * *

The act specifically designates the Central Council as the existing organization having exclusive authority and responsibility on behalf of the Natives of Southeast Alaska to implement its provisions, including, among other things, to secure the organization of the Southeast Regional Corporation.[2]

Three times in the last six years Congress has been called upon to address issues involving the organization for purposes of self government of the Tlingit and Haida Indians of Southeast Alaska.

In 1965, it was advised by the Department of the Interior of the need to provide for the organization and recognition of a tribal governing body, truly representative of these Indians, with which the Department could deal, not just in connection with matters relating to their claims against the Government, but generally.

Congress responded by passing the 1965 Act, which it had been informed by the Department would accomplish this purpose. The reports of the Interior Committees which underlie that act show beyond cavil that this is what Congress understood and intended to be its effect.

Thereafter the Central Council was organized in accordance with the requirements of the 1965 act under rules of election and a constitution which expressly established it as the general governing body of the Tlingit and Haida Indians.

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[1] See, e.g., *Hearings on S. 1830 Before Senate Comm. on Interior and Insular Affs.*, 91st Cong., 1st Sess., pt. 2, at 333 (1969); *Hearings on H.R. 13142, et al., Before House Subcomm. on Indian Affairs of the Comm. on Interior and Insular Affairs*, 91st Cong., 1st Sess., pt. II, at 510 (1969); *Hearings on S. 35 and S. 835 Before Sen. Comm. on Interior and Insular Affs.*, 92nd Cong., 1st Sess., pt. 1, at 357-361. (1971).

[2] The fact that this is what the Settlement Act provides was affirmed by Assistant Secretary Loesch when he met privately with a delegation of Tlingit and Haida Indians, including spokesmen for the Alaska Native Brotherhood, in Anchorage on February 9, 1972. Specifically, he informed the ANB representatives present that Congress has clearly designated the Central Council as the body to represent the Natives of Southeast Alaska in the performance of the organizational tasks required by the Act, and that the Department of the Interior will have to deal with the Council relative to such matters as the organization of the Southeast Regional Corporation and the preparation of the Southeast Regional roll.

These documents and the operations of the Central Council since its organization have subsequently been laid before and considered by Congress in connection with the enactment of the Tlingit and Haida judgment fund distribution act of 1970, and the Alaska Claims Settlement Act of 1971.

In their reports accompanying the bills that became the 1970 act, the Interior Committees of both houses of Congress unequivocally stated their understandings that the Central Council organized under the 1965 act is "the governing body of the Tlingit and Haida Indians."

And, in the Alaska Native Claims Settlement Act of 1971, Congress assigned the implementive and organizational responsibilities for the Natives of Southeast Alaska exclusively to the Central Council.

In the light of these acts of Congress, and of their legislative histories, we submit that no conclusion is sustainable other than that the Central Council is the general governing body of the Tlingit and Haida Indians of Southeast Alaska.

THE ALASKA NATIVE BROTHERHOOD

The Alaska Native Brotherhood—

(1) is not exclusively "Indian";
(2) is not organized or recognized as a tribal governing body;
(3) is not democratic in character; and
(4) is not representative of the Tlingit and Haida Indians, of the Natives of Southeast Alaska, or of anyone other than its members from time to time.

These observations are not intended to disparage the ANB in any way, but simply to recognize what it is not and was never intended to be.

The ANB is essentially a fraternal and benevolent order, which provides certain insurance type benefits to its members. As such it has been in existence for many years, and unquestionably has been of benefit to its members.

Its structure as a fraternal and benevolent order is clearly disclosed by its organic documents, copies of which, marked "Appendix D," are attached. See, generally, 36 Am. Jur. 2d, Fraternal Orders and Benefit Societies.

Membership in the ANB is voluntary on the part of both the individual and the organization. Applicants for membership are voted on by the members of the camp or lodge they desire to join,[1] and only members who pay their dues are entitled to participate in the affairs and benefits of the order.[2]

The central points here, however, are that the ANB can qualify neither as "Indian" within the meaning of the "Buy Indian Act," 25 U.S.C. 47, or the regulations issued pursuant thereto, 20 BIAM 5.5 A&B, 5.9 A(6), nor as a "tribe" or "proper authority of [a] tribe" within the meaning of the "Tribal Direction of Bureau Employees Act," 25 U.S.C. 48, or the regulations issued pursuant thereto, 20 BIAM 4.

The Grand Camp Constitution of the ANB provides:

> Those eligible for full membership with voting privileges shall be the descendants of the aboriginal races of North America who have attained the age of 17 years, provided that in order to vote and hold an elected office in the local camp such members would have to pay full dues. *Persons not such descendants but married into such races are eligible for full membership and all its rights and duties except that of holding a Grand Office.* (Emphasis supplied)[3]

Non-Indians and non-Natives can and do, among other things, serve as officers of the local camps and as delegates to the Grand Camp, and otherwise participate fully in the affairs and benefits of the organization.

Additionally, the Grand Camp Constitution authorizes associate memberships in no way restricted on ethnic lines.

> Persons not eligible to full membership under Article II may become associate members upon receiving the unanimous vote of a subordinate camp, provided that his application must have been submitted in writing with a render of dues at least one regular meeting prior thereto.[4]

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[1] Appendix D, Subordinate Camp Constitution, Sec. 3, p. 8; Constitution for the Sisters of the Alaska Native Sisterhood, Art. III, p. 11.

[2] Appendix D, Grand Camp Constitution, Art. VII, Sec. 2, p. 4; Sub-ord. Camp Constitution, Secs. 7 & 8, pp. 9–10.

[3] Appendix D, Art. II, p. 1.

[4] Appendix D, Art. XII, Sec. 1, p. 6.

We are advised that associate members are entitled to and do participate fully in the affairs and benefits of the organization except for voting and holding elective offices.

That the ANB was not organized as, and is not, a tribal governing body is clear from its organic documents.

As noted, it is a voluntary dues exacting order of the fraternal and benevolent type, whose membership is not only not restricted along tribal lines but is not restricted along ethnic lines.[1]

Similarly, the ANB is not a democratic organization in that eligibility for membership does not arise ipso facto from being an adult citizen or member of a particular group.

As noted, membership in the ANB is voluntary, both on the part of the organization and the individual, and its retention requires, among other things, the payment of dues.

Finally, the ANB is not representative of the Tlingit and Haida Indians, of the Natives of Southeast Alaska, nor, indeed, of any one except its own members, whoever they may be at any particular time.

As pointed out above, p. 2, the Department of the Interior advised Congress in 1965 that, in the late 1930's, it had had to restrain the Alaska Native Brotherhood from attempting to act as the central council for the Tlingit and Haida Indians "because the membership of the brotherhood was not limited to Tlingit and Haida Indians."

The situation is no different today. It appears that, of the approximately 21 local camps of the ANB presently functioning, seven are located outside of Southeast Alaska. These are Camps No. 28, St. Paul Island; No. 31, Copper Center; No. 33, Anchorage; No. 34, Cantwell; No. 36, Seattle; No. 68, Barrow; and No. 69, Kotzebue. The memberships of five of these seven camps (the exceptions being Anchorage and Seattle), are almost wholly made up of persons who are other than Tlingit and Haida Indians.

It is estimated that the current membership of the ANB comprises approximately 500 people, a substantial number of whom are not Tlingit or Haida Indians. The electors of the Central Council number about 5,000. Essentially all of the Tlingit and Haida Indians who are members of the ANB are also electors of the Central Council, but only a small fraction of the electors of the Central Council are members of the ANB. And, of the approximately 10,000 Natives (not including those counted at Metlakatla[2]) enumerated in Southeast Alaska by the 1970 census, it is estimated that only about 800 are other than Tlingit and Haida Indians.

The points here are that the Central Council is representative of the Tlingit and Haida Indians, and that the Tlingit and Haida Indians comprise about 92% of the Natives served under the Southeast Agency management contract.

The Alaska Native Brotherhood is a fraternal and benevolent order whose membership is not restricted to Indian or Native people. It was not organized and has never functioned as the tribal governing body of the Tlingit and Haida or of any other group of Indians, and it is not representative of any such group.

It can neither qualify as "Indian" within the meaning of the "Buy Indian Act," 25 U.S.C. 47, nor a "tribal authority" within the meaning of the "Tribal Direction of Bureau Employees Act," 25 U.S.C. 48.

Accordingly, as a matter of law, it is not qualified to enter into contracts or arrangements under the authority of either of these statutes.

Conclusion

In his "Briefing and Recommendations" of January 14, 1972, Mr. Brice states:

> I understand that the February 17, 1971 [Southeast Agency Management] agreement was made with the Central Council because it was felt they were "the most representative" of the people to be served under the agreement. This standard is not found in either law or regulation. . . .[3]

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[1] Contrast the electorate of the Central Council, which consists of all persons at least 19 years of age of Tlingit or Haida blood residing in the United States or Canada who were legal residents of Alaska on June 19, 1935, or prior thereto, or who are descendants of persons of Tlingit or Haida blood who were legal residents of Alaska on that date or prior thereto. Appendix B, Rules of Election, Rules 5 and 21(b), pp. 2 and 9.

[2] Services to Metlakatla are excluded from the existing Southeast Agency management contract between the Central Council and BIA.

[3] To the extent that the authority given by the "Tribal Direction of Bureau Employees Act," 25 U.S.C. 48, is to be utilized in structuring an agency management arrangement, "representativeness," as a determinant of what is the "proper authority of the tribe," is a standard implicit in law.

He then relegates "representativeness" of the people to be served to the category of "one factor" that might be taken into account in choosing among competing bidders for an agency management agreement, if "found to influence performance under the proposed contract."

While demonstrating the error of this concept is not critical in our case, it seems to us to be incompatible with what we understand to be the primary objective of such contracts.

It is our understanding that the essential aim of these contracts is to permit tribal governments to assume the conduct and provision of programs and services for their members traditionally performed by agencies of the Federal Government.

This understanding is based, among other things, on statements made by President Nixon and Secretary Morton. It seems to comport, for example, precisely with what the President said in his special message of July 8, 1970, to the Congress,[1] and with what the Secretary said in his article: "Toward Constructive Self-Government," which appears in the November 15–December 1971 issue of the NCIO NEWS. The thrust of these statements and, indeed, of every official pronouncement on the subject we have seen, is that it is the policy of the Administration, on tribal initiative, to turn over the administration of programs operated by the Federal Government for the members of the tribe to the appropriate tribal governing body, not just to some other organization, even some other "Indian" organization.

It is difficult to conceive of circumstances wherein the central objective of an agency management agreement could be achieved by awarding the contract to anyone other than the governing body of the group served by the agency.

Surely, if the Northern Cheyenne Tribal Council were desirous of entering into an agreement with the Government to conduct the programs on the Northern Cheyenne Agency being operated by the Government for the members of the Northern Cheyenne Tribe, it would not be called upon to compete with the Crow Tribal Council for the opportunity.

If the hypothetical seems extreme, we suggest that the result which would follow implementation of Mr. Brice's recommendation in the instant situation would be even more so.

Vis-a-vis the ANB in the real situation, the Crow Tribal Council in the hypothetical situation would be better qualified to receive the Northern Cheyenne Agency management contract, than would the ANB to receive the Southeast Alaska Agency management contract.

The Crow Tribal Council is a governmental entity. The ANB is a fraternal organization.

The Crow Tribal Council is indisputably "Indian." The membership of the ANB is not restricted on ethnic lines.

Indeed, the hypothetical would be closer to the real situation if the Native American Church were substituted for the Crow Tribal Council as the organization competing with the Northern Cheyenne Tribal Council for the contract.

Like the ANB vis-a-vis the people served by the Southeast Alaska Agency, the Native American Church vis-a-vis the people served by the Northern Cheyenne Agency, could show no more than that a small percentage of them were its members.

While we rest this request for reconsideration on the points of law that: 1) the Central Council is the governing body of the Tlingit and Haida Indians, and 2) the ANB does not qualify as "Indian" or as a "tribal authority" within the meanings of the applicable statutes or the regulations issued thereunder; we would also suggest, if ever there were a species of contract appropriate for let to but one party in all the world, that species must be the Indian agency management agreement, and that party must be the representative governing body of the Indians served by the agency and to be served under the contract.

In the case of Southeast Alaska that party is the Central Council of the Tlingit and Haida Indians.

Accordingly, we respectfully request that you reconsider your action approving the document entitled: "Briefing and Recommendations Regarding Tlingit and Haida Agreement," submitted to you, under date of January 14, 1972, by Mr. Calvin Brice: that you vacate and rescind such action: that you recognize, as a matter of law, that the Central Council of the Tlingit and Haida Indians of Alaska is the governing body of such Indians; and that you instruct all concerned officers and agencies of the Bureau of Indian Affairs to deal with the Central Council as such.

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[1] 116 Con. Rec. H6438 (H. Doc. No. 91–363). This message is reprinted in 20 BIAM 1.1A(1). See, particularly, numbered part 2, entitled: The Right To Control and Operate Federal Programs.

Respectfully submitted.

WEISSBRODT & WEISSBRODT,
RICHMOND F. ALLAN.

Attachments.

MAY 25, 1976.

Mr. RICHMOND ALLEN,
Weissbrodt & Weissbrodt,
Washington, D.C.

DEAR RICH: Thank you for the copy of the memorandum from Commissioner Thompson.

The breakfast presented no major breakthroughs. Morris had soft boiled eggs for breakfast, Ray had pancakes and eggs (over-medium) and my fresh milk was beginning to sour.

I was disappointed, however, the action will be carried to the Washington, D.C. area.

Thanks again.

Sincerely,

JUANITA CORWIN,
Executive Director.

WEISSBRODT & WEISSBRODT,
Washington, D.C., May 18, 1976.

Ms. JUANITA CORWIN,
Executive Director, Central Council, Tlingit & Haida Indians of Alaska, Juneau, Alaska

DEAR JUANITA: Enclosed, as you requested, is a copy of Commissioner Thompson's memorandum of July 24, 1975, to the Area Director relative to the status of the Central Council.

How did your breakfast with Morrie turn out? Did you win any dramatic acknowledgments from him about the status of the Council vis-a-vis the Self Determination Act, etc., etc.?

Sincerely yours,

RICHMOND F. ALLAN.

Enclosure.

JULY 24, 1975.

U.S. Government memorandum to: Area Director, Juneau Area.
From: Commissioner of Indian Affairs.
Subject: Tlingit and Haida Central Council.

Recently I had the pleasure of meeting with Mr. Ray Paddock and others. In conjunction with our discussions, the status of the Tlingit and Haida Central Council as a representative tribal organization was considered. It was reported that some questions had been raised as to whether the Bureau recognized the Tlingit and Haida Tribes and the Central Council as empowered to speak on behalf of those Tlingit and Haida people that adhere to the organization.

We were surprised that doubts continued to exist among our Juneau staff as to whether the Tlingit and Haida Central Council was recognized as a tribal organization. That body is duly recognized as speaking for the tribal membership. Rules prescribing the method of election of delegates to the Central Council have been approved by the Secretary of the Interior.

As you know, a contract for general counsel services has long existed between the Central Council of the Tlingit and Haida Indians of Alaska and the Weissbrodt firm. That contract and its extensions have been approved by the Secretary under authority as provided by 25 U.S.C.A. 81, which governs agreements made between persons and Indian tribes.

Finally, in the Department's publication entitled American Indians and their Federal Relationship, the Tlingit and Haida are listed on page 6 as an Alaska

Native organization having an approved constitution, which in the case of the Tlingit and Haida Central Council is the election rules approved by the Department in 1966.

Hopefully, the general explanations offered in this letter will clarify for all concerned that it is the view of the Bureau that the Tlingit and Haida Central Council is a tribal entity representing the Tlingit and Haida Indians of Alaska.

MORRIS THOMPSON.

JANUARY 29, 1976.

Memorandum to: Commissioner of Indian Affairs.
(Attention: Code 370).
From: Juneau Area Director.
Subject: Guaranteed and insured loans—Indian Financing Act of 1974—Section 1.5 of 47 BIAM Supplement 1 and section 93.8 25 CFR regarding—tribe relending programs.

We have received numerous requests from financing institutions in Alaska as to what tribes in Alaska have relending programs for tribal members and what individual members are, therefore, not eligible for financing under the guaranteed and insured loans programs.

The relending programs established in Alaska have been used by Indian organizations primarily to allow tribal members to purchase and rehabilitate fishing boats. Some of the organizations, although still on our records, have not been in operation for a number of years. Most of the organizations have very little funds, if any, for relending. All of the relending operations were initially financed by loans from the revolving fund.

Since some of the organizations listed below have not had any transactions for a number of years, most have very little funds and those advances which have been granted have only been for purchasing or rehabilitating fishing boats, we are requesting these organizations be exempted by a special rule from the classification of a tribe relending program referred to in Section 93.8 25 CFR and Section 1.5 of 47 BIAM Supplement 1.

Name	Present status	I. I. M. funds available Dec. 30, 1975
Southeast Alaska:		
Angoon Community Association	In operation	$10,654.24
(1) Hoonah Indian Association	No longer operating	
Hydaburg Cooperative Association	In operation	48,459.19
Organized Village of Kake	do	84,695.74
Klawock Cooperative Association	do	5,925.44
(6) Metlakatla Indian Community	do	770.52
(1) Petersburg Indian Association	No longer operating	
(1) Sitka Community Association	do	
(2) Wrangell Cooperative Association	In operation	450.10
(3) Organized Village of Kasaan	No longer operating	
(3) Ketchikan Indian Corporation	do	
(4) (5) Tlingit and Haida Indians local development corporation	In operation-business	
Nushagak: Tonuak Indian Credit Association	In operation	98,444.67
Kenai:		
(5) Kenaitze Indian Tribe	do	

(1) Balance written off in 1973.
(2) Declared in default.
(3) Loans paid off—no operation.
(4) Local development corporation—not BIA funds—business relending and home down payment.
(5) Funds kept by tribe in own bank account—amount of funds unknown.
(6) Small amount in tribe bank account.

We have not submitted copies of the Plans of Operation for the organizations listed above because they are on file in the Central Office. The Tlingit & Haida Indian Local Development Corporation is an organization created by the Tlingit & Haida Indians of Alaska with no BIA participation; therefore, we do not have their Plan of Operation.

At the same time that the financing institutions asked about the tribes with relending programs, they also requested information as to those villages, towns and/or cities that are ineligible areas for our guaranteed and insured loan program. We can possibly answer this locality question after we receive your answer to our memorandum of January 26, 1976, which questioned your memorandum of January 19, 1976.

Since the Alaska banks have shown a great deal of interest in our guaranteed loan program, we would like to be able to keep them informed as to who are eligible and ineligible applicants. To keep from jeopardizing our working relationships with these financial institutions by having to refuse loan applications from the banks because of ineligibility due to a relending program or locality, we respectfully request a determination be made on this appeal as quickly as possible.

CLARENCE ANTIOQUIA,
Area Director.

TLINGIT AND HAIDA INDIANS OF ALASKA

INDIAN FINANCING ACT—PUBLIC LAW 93-262

This Act was passed on April 13, 1974 to provide for financing and economic development of Indians and Indian organizations. Implementation of the provisions of this Act has been a source of frustration to us as an Indian Tribe, and for individual Alaskan Natives for whom the Act was designed.

The legislative intent of the Indian Finance Act is to develop and utilize Indian resources to the extent that the Indians "fully exercise responsibility for the utilization and management of their own resources and where they will enjoy a standard of living . . . comparable to that enjoyed by non-Indians." However, the Juneau Area Office BIA's present interpretation of the Act prevents the Tlingit & Haida people from acquiring economic self-determination or a standard of living comparable to our non-Native neighbors.

Due to the BIA's interpretation of the following clause, individual Tlingit and Haida are ineligible for two programs created under the Act:

The Revolving Loan Fund Program and the Guaranteed and Insured Loan Program:

> . . . The fund shall be available for loans to . . . individual Indians who are not members of or eligible for membership in an organization which is making loans to its members. (Sec. 101, Title 10.)

According to the BIA's interpretation, an Indian who belongs to an organization making private loans to its members, is ineligible for loans created under the Act. The BIA states that because Tlingits and Haidas are eligible for loans under the Central Council's Business Development loan program, they are not eligible for revolving fund loans or insured or guaranteed loans. Tlingit & Haida Central Council disagrees with the BIA's interpretation, believing that Congress intended the word "loans" (in the last line of the above quote) to refer to monies borrowed from the Revolving Fund. If the Central Council's understanding is accurate, individual Tlingit & Haida people would be eligible under both programs since the Council's loan fund is not created from monies borrowed from the revolving fund. In addition, only $175,000 is available in the Tlingit-Haida Program. Such a limited amount could not possibly serve 14,000+ people—only supplement other programs.

Another area of contention concerns the BIA Commissioner's definition of "reservation" and his interpretation of the status of areas "near a reservation as pertains to Alaska. The Commissioner limits the definition of reservation to include only" . . . land held by incorporated groups, regional corporations, and village corporations under the provisions of the Alaska Native Land Claims Act." Any other land, such as that held by Natives in an urban area, could at best be described as land "near a reservation." Businesses which are located on lands "near a reservation" are considered as second priority and are not funded, as stated in the Juneau Area Director's memo of April 14, 1976 regarding eligible applicants for the Indian Business Development Program grants created under the Act. Because Tlingit & Haida people living in municipal areas are classified as second priority applicants who are not funded, the Act as interpreted cannot help but be regarded as a discriminatory tool. The Central Council, however, does not believe that Congress intended for rural Natives to benefit to the exclusion of Natives living in or near Alaskan municipal areas.

The BIA and other government programs, in Alaska have always included urban Natives in the definition of reservation because they viewed their needs to be just as significant as those of the rural Natives. If the Commissioner's definition of reservation is enforced and precedent may be set which may exclude urban Natives not only from the benefits of the Indian Business Development program but from many other federal programs.

Tlingit and Haida Central Council believes that the BIA must re-evaluate their interpretation of the Act as pertains to Alaska Natives. As long as they exclude individual Tlingit and Haida from the Revolving Loan Fund and the Loan Guarantee and Insurance Program, and classify Alaskan urban Natives as second priority applicants, whose needs fail to be met; there is not much hope for the Tlingit & Haida people in acquiring a standard of living economically comparable to our non-Native neighbors.

The Council also believes that the other purpose of the Act, to develop and utilize Indian resources to the extent that Indians "fully exercise responsibility for the utilization and management of their resources," would best be met in Southeast Alaska if the Central Council was able to contract for the BIA credit and finance office and administer the programs created under the Act. Real economic self-determination will come about only when Natives themselves are allowed to develop and manage their own resources. It is our contention that the Indian Finance Act in conjunction with the Indian Self-determination Act was designed for our Native people to do just that: manage our own resources.

APRIL 14, 1976.

U.S. Government memorandum to: Agency Superintendent.
(Attention: Credit and Financing).
From: Area Director, Juneau.
Subject: Fiscal year 1976 grant funds availability.

To be eligible for consideration for a IBDP grant every applicant *must* meet all of the following requirements.

1. Must be an eligible enrolled individual Indian or an organization which is at least 51% eligible Indian ownership. (25 CFR 80.3)

2. Must be unable to meet their total financing need without securing a grant. (25 CFR 80.3) and 25 CFR 80.17)

3. Must have a form of organization acceptable to the Commissioner. (25 CFR 80.3)

4. Must have all necessary legal authority to engage in their proposed enterprise. (25 CFR 80.7)

5. Must have contributed all of his available assets to his proposed enterprise. (25CFR 80.17)

6. Must be self sustaining as evidenced by proforma balance sheets, operating statements and cash flow statements. (80 BIAM 2.2D)

7. The proposed enterprise must be profit oriented. (25 CFR 80.4)

8. Must bring direct economic benefit to a tribe or individual Indians living on a reservation. (25 CFR 80.2)

9. Must create employment for Indians. (25 CFR 80.4)

10. Must be located on or near a reservation. (25 CFR 80.4)

If near a reservation can only be considered as a second priority. (FY 76 there will be no funding for second priority applicants (25 CFR 80.7)

11. The proposed enterprise must have tribal approval if it is to be on reservation (priority one) (25 CFR 80.7)

12. The applicant must be able to show that the required additional financing is either available or committed. (80 BIAM 1,80)

13. Must demonstrate technical ability to succeed. (25 CFR 80.17)

14. Must show how grant funds will be used. (Not for refinancing.) (25 CFR 80.17)

15. Second grants to same applicant must meet the additional requirements of 25 CFR 80.17 (g)

16. Must show by proforma financial statements that available capital, including the requested grant is adequate to allow the project to become self sustaining and have a strong likelihood of success. (80 BIAM 3.3)

17. Must show that there is a market for the product or service provided by the proposed enterprise. (80 BIAM 3.3)

18. The application must show that the applicant has developed a satisfactory plan of operation for the business. (Form 5–8003 D.2)

19. Should meet all other requirements of the BIAM.

The above sited 18 items are required to be present before a person has a basis for making application for a grant. If the application fails to provide adequate information to demonstrate that the above 18 criteria are all positively in compliance then the application can not be considered for funding because it is incomplete. In cases where agency credit staff have an incomplete application they should work to complete the application properly before presenting that application for consideration to the Area review committee. In addition to the above a reasonable ratio of Indian jobs created for grant dollars expended must still be maintained.

The additional concept of comparison of the relative merit of competing applications will apparently not be applicable to the FY 76 Grant program in the Juneau Area. The initial commitment of funds to eligible applicants did not exhaust our entire appropriation for this fiscal year so we will continue to fund qualified applications from any agency so long as funds remain.

CLARENCE ANTIOQUIA,
Area Director.

JOHNSON O'MALLEY ACT

Early in December 1975 it was recognized by the Central Council of the Tlingit and Haida Indians of Alaska that the Alaska Federation of Natives, Inc. would no longer be able to contract for the administration of that program on a statewide basis. It appeared to us this was an opportune time for the tribe to become more actively involved in the education of their children. The Central Council planned and funded a Southeast Alaska Indian Education Meeting on January 20–21, 1976 in Ketchikan, Alaska. (See Attachments 1, 2, & 3)

This meeting was attended by members of the then current Johnson O'Malley and Indian Education Act Committees (see attachment #4 for complete minutes). The decision was made at this meeting to:

1. Regionalize all education programs in Southeast Alaska.
2. Organize an Indian Education Committee with one representative from each community to provide guidance to the Central Council.
3. Provide funding for the Indian Education Committee to function.

Immediately upon our return from this meeting, we submitted a letter to the Juneau Area Director advising him of our intent to submit a proposal to administer the Johnson O'Malley Education Programs throughout Southeast Alaska for Fiscal Year 1977 (See Attachment #5). The Bureau at the time was unable to respond as they did not as yet have the Central Office's Administration Code for 25 CFR 273.

It was decided by the Bureau, and we agreed, it would be more appropriate to develop "Start-Up" Proposals to begin with. The intent being we could assist the communities develop Johnson O'Malley Proposals while at the same time actively form JOM Parent Committee's which complied with the new regulations which resulted from passage of P.L. 93–638. Our "Start-Up" Proposal was admitted on February 24, 1976 (see attachment #6). Negotiations did not take place until April 9, 1976 during a regional meeting at which time it was agreed for our proposal to be cut from its original $106,138.28 to $38,841.60 (see attachment #7). At that time, it was our sincere belief the Bureau was doing all it could with limited funds available. The Bureau stated intent during the regional meeting on April 7–9, 1976 was to contract on a regional level with regions who had obtained community resolutions to do so.

Our proposal included two regional work sessions at which time it was reconfirmed thirteen communities wished the Central Council to administer the Johnson O'Malley Programs for the Bureau. Two communities, Juneau and Sitka, elected to contract direct with the Bureau.

On June 17, 1976 we advised the Bureau we would be ready to negotiate for the "transitional quarter" by June 23, 1976 (see attachment #8). They scheduled the negotiations for June 28, 1976. We provided them with our proposal as a modification to our current contract for the management of the Southeast Alaska Agency. The Bureau negotiation team advised us at that time they were unable to deal with Johnson O'Malley as part of the modification and they would need time to analyze our proposal. The negotiations were then adjourned until June 30, 1976. The Bureau then advised our JOM Proposal would have to be separate from the Southeast Alaska Agency Contract. Again we went back to the drawing boards and developed a separate JOM Administration Proposal. This proposal was submitted to the Juneau Area on August 11, 1976. It was developed utilizing Public Law 93–638, 88 Statute 2203 as the authority to contract. More specifically, it was developed per 25 CFR 271.1(a), 271.2(q), and 271.14.

After nine months of trying to obtain a contract with the Bureau for the administration of JOM Programs in Southeast Alaska, they now tell us we developed our proposal utilizing the wrong regulation (see attachment #10). They advise our proposal must conform not only to 25 CFR 271 but also to 25 CFR 273. We argue we do not wish to conduct a JOM Program (see attachment #11), but have determined, with concurrence from the Communities we represent, that we wish to administer the JOM Program per Public Law 93–638, Title I, Section 102.(a).

Our thoughts back in December 1975 were we had better start early if we wish to be ready by the start of the school year. Today is September 2, 1976, school started August 23, 1976 in Hoonah and September 1, 1976 in most other communities. The thirteen communities who exercised their rights under Public Law 93–638 still do not have a JOM Program operating.

ATTACHMENT NO. 1

JANUARY 5, 1976.

CENTRAL COUNCIL OF THE TLINGIT AND HAIDA INDIANS OF ALASKA

Southeast Alaska Agency, Juneau, Alaska

Memorandum to: Executive Director—Central Council of the Tlingit and Haida Indians of Alaska.
From: Native Agency Director, Southeast Alaska Agency.
Subject: Indian education meeting

The Southeast Agency requests the Central Council of the Tlingit and Haida Indians of Alaska sponsor an Indian Education Meeting. It's purpose would be to establish policy for all Indian education programs in Southeast Alaska for the CCTHIA.

In recent years many education dollars have been spent in Southeast Alaska to meet the specialized and unique educational needs of our people. These dollars are supposed to be spent with "The meaningful participation in all aspects of educational program development and implementation by those affected by such programs." In our analysis the dollars are spent with very little participation from our people. All of the funding sources make an attempt to involve our people, however, it is a feeble one.

There are specifically five education programs which require our active participation. They are:

1. College Student Assistance (CSA)
2. Adult Vocational Training (AVT)
3. Adult Education (AE)
4. Johnson O'Malley Act (JOM)
5. Indian Education Act (IEA)

The CSA and AVT programs are administered by the Southeast Agency. The Bureau of Indian Affairs administers the AE program. The BIA and AFN administer the JOM program. The Office of Education, U.S. HEW, administers the IEA program.

Public Law 93–638, Indian Self-Determination and Education Assistance Act, makes it imperative we act immediately to put the education fund destined for Southeast Alaska to their best use as determined by our people. Our people have been delegated this responsibility, however, they are unprepared in most instances.

Our plan will be to utilize current community JOM and IEA committees to make up the nucleus of the meeting. Two people would be invited from each community to attend. It will be a two day meeting in Ketchikan. The Southeast Agency will be responsible for the coordination. Costs will be limited to actual travel and per diem of community particpants. Estimated cost to conduct the meeting is seven thousand five hundred dollars ($7,500.00). All administration costs will be borne by the Southeast Agency and the Bureau of Indian Affairs. A tentative agenda is enclosed.

The reason we are asking the CCTHIA to sponsor the meeting is they are responsible to provide our agency with policy and direction. Presently they do not have the technical means to do this. Education has been a high priority of our people since the forming days of the Central Council. Yet, today our educational goals have not clearly been established. Instead of coordinating all educational programs, they are planned separately with individual goals which may or may not relate to one another. With the inception of the Indian Self-Determination and Education Assistance Act it makes it imperative all education programs are coordinated with the same goals to insure a quality education for our people.

We in the Southeast Agency feel this meeting should be funded by the CCTHIA. The overhead generated by the Southeast Agency Contract is for policy and direction. This meeting will provide this policy and direction.

The meeting is tentatively scheduled for January 20, 21, 1976. Please give this proposal consideration as soon as possible.

JOSEPH G. WILSON.

ATTACHMENT NO. 2

JANUARY 5, 1976.

Mr. JOSEPH WILSON,
Native Agency Director,
Southeast Agency,
Juneau, Alaska

DEAR MR. WILSON: Your request for the funding of an Indian Education Meeting was received January 5, 1976.

The purposes of sponsoring such a meeting are in line with the policy set by the Executive Committee to "regionalize" JOM funding. A meeting will provide the staff of S.E. Agency with the policy they need in addition to the required support from the communities you are proposing to serve.

There is one thing I will address only once. Policy from the OCTHIA is set by the Executive Committee. Technicians may propose policy in reference to their special interest fields, which is what you are doing.

I expect to receive reports and recommendations from the technicians of S.E. Agency, as they work in the spirit of "Indian Self-Determination."

I will recommend to the Executive Committee that this meeting be funded. The Central Council Accounting Division, which is a highly technical operation, has assured me that this is an allowable expenditure.

I will expect to receive a full written report of the results of this meeting to forward to the Executive Committee.

Sincerely,

JUANITA CORWIN,
Acting Executive Director.

ATTACHMENT NO. 3

JANUARY 7, 1976.

Memorandum to: Don P. Barrett, Employment Assistance Officer, Francis W. Dunne, Ketchikan Officer Manager, Eli Reyes, Administrative Manager, Maxine Richert, Education Coordinator, Felipe Tagaban, Education Specialist.

From: Joseph G. Wilson, Native Agency Director, Southeast Alaska Agency.

Subject: Indian education meeting.

Please see the attached memorandum to the Central Council of the Tlingit and Haida Indians of Alaska. The tentative Agenda provides your areas of participation. You should have a prepared presentation emphasizing the intent and flexibility of the program assigned. Please keep out policies and procedures which currently guide your program.

The intent of this meeting is to develop Indian Education policies to be recommended to the Central Council. The nucleus of the participants are active in their community's Indian Education program, therefore, the outcome should provide us with an excellent view of their thoughts. We purposely left most of the second day open so the participants may determine what they want to do.

Maxine Richert, Felipe Tagaban, and Eli Reyes will be prepared to present different alternatives to administer Indian Education programs in Southeast Alaska. These alternatives will be discussed with all staff participants prior to the meeting.

Maxine will be responsible for determining who the participants will be and for arranging travel and per diem. Andrea Laiti will assist with travel of those people from the Juneau District and Donna Roberts for the Ketchikan District. Andrea and Donna will also provide the clerical support at the meeting.

Francis W. Dunne is responsible for the facility and the housing in Ketchikan.

Eli Reyes will be the coordinator for the meeting. Any questions may be directed to him.

I look forward to a successful meeting. I am confident you will be totally committed to make this a success.

JOSEPH G. WILSON.

Attachments.

ATTACHMENT NO. 4

CENTRAL COUNCIL OF THE TLINGIT AND HAIDA INDIANS OF ALASKA,
SOUTHEAST ALASKA AGENCY,
Juneau, Alaska.

MEMORANDUM

Date: January 28, 1976
To: Executive Director, Tlingit and Haida Central Council
From: Native Agency Director, Southeast Alaska Agency
Subject: Southeast Alaska Indian Education Meeting, January 20–21, 1976, Ketchikan, Alaska

The Southeast Alaska Indian Education Meeting was called to order at 9:30 a.m., Tuesday, January 20, 1976. Eli Reyes, Administrative Manager, Southeast Alaska Agency, was the coordinator. Please see attachment #1 for those in attendance. After the opening remarks which stressed the Southeast Alaska Agency's role as a service organization and the need for active involvement of our people, the meeting was turned over to Eli. He advised the group that the number next to the topic of each presentation on the agenda corresponded to the presentation. The hand-outs were in the meeting packet (attachment #2).

After the introductions in which everyone in the room gave their name, community, and affiliation we proceeded down the agenda (attachment #3). Our first presentation was made by John Hope who gave a brief overview of Public Law 93–638. Although contracting of services was accomplished previously, it was not until P.L. 93–638 that the authority to contract was clearly established. He advised of his availability to assist along with Jim Austin in the development of tribal resolutions to contact. A short question and answer period followed.

Felipe J. Tagaban, BIA Area Education Specialist on detail to Southeast Alaska Agency, then made a presentation on Public School Funding. For the first time the group had some indication as to where public school financing came from and how they were supposed to be used. This presentation was very well received.

Every agenda has some flexibility. Jim Beima, Department of Education, was available to give a presentation on the Rural Education Attendance Areas (REAA). His report pertained to the communities affected by REAA in Southeast Alaska and to the number of petitions filed for the various school board openings. The participants present were provided with information which appeared to be helpful to them.

Maxine Richert, Education Coordinator, Southeast Alaska Agency, provided a review of our current College Student Assistance program. She provided the basics of the program, how it is administered, and status as to the number of students involved. She also gave deadlines which affect the students' funding. Maxine's presentation generated many questions and answers and was very well received.

Felipe provided the presentation on the Johnson O'Malley Act. He advised the group that the deadline for proposals has been extended to March 1, 1976. He gave a brief review of the current application process and provided a handout on the anticipated application process. Discussion on current JOM projects was kept at a minimum purposely as the intent of all presentations, at this time, was only to give what education resources were available.

Francis Dunne, Employment Assistance Specialist and Ketchikan Office Manager, provided a brief overview of the Adult Vocational Training available through our agency. His emphasis was on the flexibility of the program as the Employment Assistance program is our only program which tries to meet all the needs from the time an individual enters into it until settled into employment with adequate income to met all necessary needs.

Francis was scheduled to make the presentation on Adult Education, however, he arranged for Mr. Larry Boyer from Ketchikan Community College to make the presentation as it was his specific field. He provided excellent information to the group on how to obtain a GED high school diploma and how to acquire GED study in rural communities.

Maxine presented the Education Needs Survey which was accomplished by the JOM staff last spring. She explained how it was done and for what reason. The reason being it was an attempt to meet the requirements for JOM projects on a regional basis. Felipe Tagaban and Len Sevdy (hired by Central Council to work on the survey) analysed the information provided by the survey. It was the consensus of thhe group that the survey did in fact contain excellent information, however, it is far from complete. The survey does provide us with a base which should be expanded to really be worthwhile to a total regional concept.

Once again we had to change the agenda since the Parent Committee participants were not as yet selected. We went on with "Where do we go from here?" This presentation was made by Eli Reyes. Eli summerized how all education programs were currently being administered and presented three methods to administer education programs. They are: 1. local; 2. a combination of local and regional; and 3. a regional concept. Attachment #4 addresses these concepts. Many questions and answers were generated until we recessed at 5 p.m.

The meeting was called back to order at 9:15 a.m., Wednesday, January 21, 1976, at which time we continued to discuss the pros and cons of a regional concept. Many questions were asked regarding what technical assistance would be provided, who would approve programs, who would hire, what would be the best, etc. The answers to all these questions from our staff was "this is what we are asking you, you give us a direction and we will develop the detail and present it for your approval."

After a short break we went back to presentations from five Parent Committee members. The five volunteers were Clarissa Evens, Petersburg; Anne Johnson, Sitka; Walter Johns, Angoon; Mary Paddock, Haines; and Richard Stokes, Wrangell. Each outlined how their Parent Committee was formed, what projects they initiated, how they felt their programs were going, problems they had, and how they addressed the problems. This session generated many questions and answers from other Parent Committee members. The interplay was excellent. Our staff tried to note the problem areas brought out by this session. Remember, these are staff observations:

1. Where to get supplies.
2. Nepotism.
3. Job descriptions.
4. Administration.
5. Late starts.
6. Parent Committee do not understand responsibilities.
7. Communities do not know where to obtain information.
8. Not enough parents are interested in serving on Parent Committees.
9. Not enough technical support.
10. Not enough resource people visit communities.
11. Not enough training.

Further, it came out, Parent Committees were formed the following ways:

1. Hearings were held, meetings publicized, elections held.
2. Those who showed up for the meetings were appointed.
3. A meeting was held and the Parent Committee was elected from those attending.

Next we were fortunate to have Don Boselovic of the U.S. Office of Education, Washington, D.C. available to present more information on the Indian Education Act. He provided us with the following deadlines for Title IV:

Part A: Deadline in Washington, February 27, 1976. If not in the office by that date, the proposal must be "registered mail" no later than February 23, 1976 ($25 million available).

Part B: Deadline in Washington, March 3, 1976 ($16 million available).

Part C: Deadline in Washington, March 3, 1976 ($4 million available).

About 11:30 a.m., Don Barrett, Supervisory Employment Assistance Officer, made his presentation on Career Education. It included a twenty-minute film outlining the concepts of Career Education. Don then went on to explain that Southeast Alaska Agency is currently working towards this concept as we are convinced that it will provide our people a better service. Since it was then about 12:15 p.m., no question and answer period followed. We recessed for lunch.

The afternoon session was called to order at 1:30 p.m., at which time we continued to discuss the pros and cons of regionalization. About 2 p.m. the Parent Committee members agreed to have a committee meeting to decide issues. Attachment #5 are the minutes of the meeting recorded by Maxine Richert. The committee adjourned at approximately 4 p.m.

After the meeting we had a staff meeting to review what had happened. This is what we concluded occurred:

1. It was the consensus of the group that Central Council take steps necessary to regionalize all education programs in Southeast Alaska.

2. It was the consensus of the group that they organize into an Indian Education Committee with one representative from each community to provide guidance to the CC.

3. It was the consensus of the group that the CC do all in its power to see that the Indian Education Committee is provided funding to exist.

Attachment #6 is a summary of the evaluation form completed by all the participants excluding staff.

All representatives deserve to be commended for their active participation in the meeting. The attendance was excellent. There were no dropouts!

JOSEPH G. WILSON.

Attachments:

1. Attendance roster.
2. IEM packet (not to participants).
3. Agenda (not to participants).
4. Management charts.
5. Minutes of Parent Committee meeting.
6. Evaluation summary.

ATTACHMENT 1

SOUTHEAST ALASKA INDIAN EDUCATION MEETING PARTICIPANTS

Name	Address	Representing
Jan Garcia	Box 2553, Ketchikan	IEA counselor.
Liz Boario	Box 314, Yakutat	JOM.
Esther Bremner	Box 295, Yakutat	IEA.
Clarissa Evans [1]	Box 997, Petersburg	JOM-PC.
Ethelyn Lopez [1]	Box 285, Petersburg	Do.
Isabelle G. Brady	Box 556, Mount Edgecumbe	IEA director.
Anne Johnson [1]	Box 927, Sitka	IEA-PC.
Ken Adkisson	Box 738, Sitka	IEA.
Dolly Jensen	Box 1192, Ketchikan	JOM counselor.
Art Demmert	Box 125, Craig	Do.
Marvis Triplett	Box 103, Craig	JOM-PC.
Barbara Johnson [1]	Box 27, Angoon	Parent committee.
Walter Johns [1]	Angoon	Do.
Reg Nathan [1]	Hydaburg	Do.
Alma Cook [1]	do	Do.
David Marvin [1]	Hoonah	JOM-PC.
Bea Brown [1]	do	IEA-PC.
Marlene Johnson	Box 218, Hoonah	JOM-RC.
Margaret Demmert [1]	Box 133, Craig	JOM/IEA-PC.
Connie Simpson	Box 1361, Sitka	IEA.
Vivian Max [1]	Box 774, Pelican	IEA-PC.
Mary Paddock [1]	Box 134, Haines	Do.
John Tompkins [1]	Box 54, Haines	Do.
Donya Anselm [1]	Box 795, Pelican	IEA-PC.
Richard Stokes [1]	Box 732, Wrangell	Do.
Mary Jackson [1]	Box 28, Klawock	JOM-PC.
Ernestine L. Kato [1]	Box 43, Klawock	Do.
Johanna Bolton [1]	Box 133, Metlakatla	IEA-PC.
Phil Keith	Schoenbar Junior High School, 217 Schoenbar Rd., Ketchikan.	JOM.
Len Sevdy	J-D High School Indian Studies Program, Juneau	IEA representative.
Vesta Johnson	Ketchikan	Haida Society.
Lorena John	Indian language assistant, Ketchikan	IEA.
Erma Lawrence	Indian language teacher, Ketchikan	IEA.
Sharon Walker	Ketchikan	School board member.
Elnore I. Corbett [1]	Box 1007, Ketchikan	JOM-PC Valley Park.
Leona Strang [1]	Box 1259, Wrangell	IEA-PC.
Karen Williams [1]	Box 292, Metlakatla	Parent committee and school board.
Mary Jones	Box 1225, Ketchikan	IEA.
Marina Garza [1]	4160 Tongass, Ketchikan	IEA-PC.
Joseph W. Johnson, Sr.[1]	Box 27, Angoon 99820	Parent committee.
Estelle Thompson	Kasaan	Parent committee representative.
Marlene Lund	SJS, Sitka	Teacher education.
James R. Leonard	do	Director, planning and evaluation.
Larry Boyer	Ketchikan	Ketchikan Community College.
Jim Baima	Department of Education, Pouch F, Juneau	Department of Education.
Don Bosalvic	Washington, D.C	OIEA.
John Hope	Bureau of Indian Affairs, Box 3-8000, Juneau	Tribal officer.
Joseph G. Wilson	State Education Agency, Juneau	Native agency director.
Eli Reyes	do	Administrative director.
Felipe Tagaban	Bureau of Indian Affairs, Box 3-8000, Juneau	Education specialist.
Don Barrett	State Education Agency, Juneau	Employment assistant officer.
Francis W. Dunne	State Education Agency, Ketchikan	Office manager.
Maxine Richert	do	Education coordinator.
Jim Austin	do	Tribal officer.
Ventura Saminiego	do	Employment assistant specialist.
Wanda Culp	do	Administrative assistant.
Andrea Laiti	do	Employment assistant aide.
Donna Roberts	do	Do.

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[1] Parent committee member.

ATTACHMENT 3

Southeast Alaska Indian Education meeting, Ketchikan, Alaska, Jan. 20–21, 1976

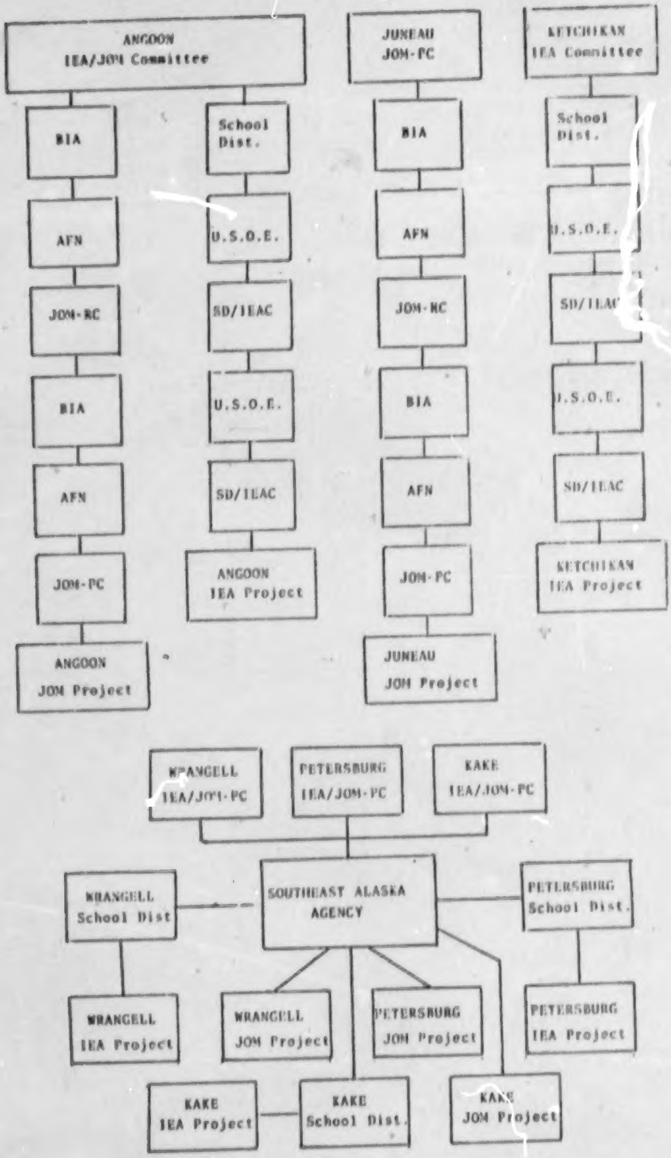
Tuesday, Jan. 20, 1976:

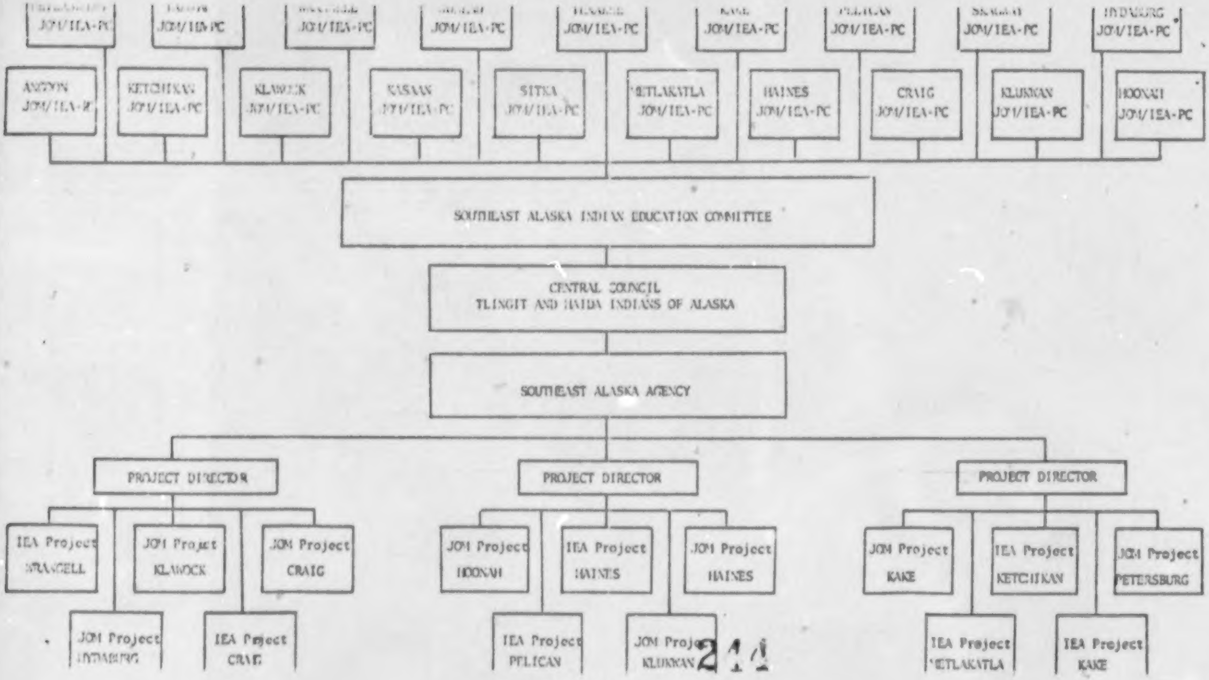
9 a.m.—Opening remarks	Joseph G. Wilson.
9:15 a.m.—Introductions	Eli Reyes.
9:30 a.m.—Indian Self-Determination and Education Assistance Act (1)	John Hope.
9:45 a.m.—School financing (2)	Felipe Tagaban.
10 a.m.—College student assistance (3)	Maxine Richert.
10:15 a.m.—Johnson O'Malley Act (JOM) (4 and 5)	Felipe Tagaban.
10:30 a.m.—Coffee break.	
10:45 a.m.—Adult vocational training (6) and adult education (7)	Francis Dunne.
11:15 a.m.—Indian Education Act (IEA)	Felipe Tagaban.
11:30 a.m.—Education needs survey (ENS)	Maxine Richert.
12 noon—Lunch.	
1:30 p.m.—ENS analysis	Felipe Tagaban.
2 p.m.—ENS group discussion	Group.
3:15 p.m.—Coffee break.	
3:30 p.m.—JOM and IEA parent committees	To be selected from participants.
4:40 p.m.—Where do we go from here? (8 and 9)	Eli Reyes.
5 p.m.—Recess.	

Wednesday, Jan. 21, 1976:

9 a.m.—JCM and IEA proposals	Southeast staff.
10:30 a.m.—Coffee break.	
10:45 a.m.—Career education (10)	Don Barrett.
11 a.m.—Policy development	Group.
12 noon—Lunch.	
1:15 p.m.—Open to group.	
5 p.m.—Adjourn.	

ATTACHMENT 4




JOM/IEA-PC
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KAKE JOM/IEA-PC
PELICAN JOM/IEA-PC
JOM/IEA-PC
HYDABURG JOM/IEA-PC
ANGOON JOM/IEA-PC
KETCHIKAN JOM/IEA-PC
KLAWOCK JOM/IEA-PC
KASAAN JOM/IEA-PC
SITKA JOM/IEA-PC
METLAKATLA JOM/IEA-PC
HAINES JOM/IEA-PC
CRAIG JOM/IEA-PC
KLUKWAN JOM/IEA-PC
HOONAH JOM/IEA-PC
SOUTHEAST ALASKA INDIAN EDUCATION COMMITTEE
CENTRAL COUNCIL
TLINGIT AND HAIDA INDIANS OF ALASKA
SOUTHEAST ALASKA AGENCY
PROJECT DIRECTOR
PROJECT DIRECTOR
PROJECT DIRECTOR
IEA Project WRANGELL
JOM Project KLAWOCK
JOM Project CRAIG
JOM Project HYDABURG
IEA Project CRAIG
JOM Project HOONAH
IEA Project HAINES
JOM Project HAINES
IEA Project PELICAN
JOM Project KLUKWAN
JOM Project KAKE
IEA Project KETCHIKAN
JOM Project PETERSBURG
IEA Project METLAKATLA
IEA Project KAKE
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Southeast Alaska Indian Education Meeting

Ketchikan, Alaska, *January 20–21, 1976.*

When the Southeast Agency staff had concluded their presentation, the Parent Committee members agreed to have a Committee meeting to decide issues. Marlene Johnson, from Hoonah, was elected Chairwoman.

Marlene J. called the meeting to order. The first issue for discussion was whether or not to form an Executive Indian Education Committee and how many members should be on such a committee.

Chairwoman Marlene, J. Dick (Stokes-Wrangell) you want to form it now?

Dick Stokes. Yes, one from each community.

Barbara Johnson (Angoon). Right.

Marlene J. There are monies available in JOM and I think this is where the money should come from.

Walter Johns (Angoon). I make a motion that we adopt this concept (that the JOM monies be utilized to form an Executive Committee).

Dick S. 2nd the motion.

Discussion—unanimous—motion passed.

Walter J. Executive Committee is the best route to follow with expertise already available in SE Agency, Executive Committee would have adequate control. If certain villages don't want to join, that is their prerogative.

Marlene J. Phillip (Tagaban) if villages don't want to join, would they contract directly with BIA?

Phillip T. Yes, sources of funding limited to entitlement.

Liz Boario (Yakutat). What is the Executive Committee's role?

Walter J. They could plan for programs for data gathered from villages; monies earmarked for SE with priorities from each village to plan programs; have an overall program for all people in SE.

Liz B. Do you see THCC serving as agency doing checking a village who is disbursing monies?

Walter J. That could be one role.

Marlene J. Look at Fairbanks and Upitka Vista—they have very effectively put all programs under one umbrella package using 1.7 million in IEA and JOM monies.

Walter J. I would like to see expertise in THCC used. I can't see any other way, especially for small villages.

Barbara J. I disagree with Walter. In Anchorage, I attended a meeting with 20 representatives from 20 communities. There should be one from each village.

Walter J. Yes, but how much did it cost?

Kasaan. At first it should be one from every area.

Marlene J. If you don't have one from every village it gets tough when not enough money for each village.

Frank Dunne (SE Agency Ktn). Are we talking about both JOM & IEA?

Marlene J. Yes, maybe we should have one parent committee from both.

Mary Paddock (Haines). I don't see where the Anchorage meeting pertains to us—it's solely for unorganized boroughs. I think executive committee (5-man board) is better. All 19 is too costly and will take away from our programs. The people can vote on the decisions of the committee. One from each community pick a person for the executive committee. This is the simplest way.

Marlene J. I think there are pro's and con's. Each community needs to know what is going on.

Curly Demmert (Craig). Eli, you were interested in forming a committee because it was BIA money. What does it do for combining JOM–IEA under one committee?

Eli R. Coordination.

IEA Representative from Washington, D.C. You could file under B for technical assistance.

Myrna Garza (Ktn). But we would still have to write our own proposals.

Eli R. We will provide you with assistance to develop programs with Native education committee.

Myrna G. Could THCC apply for funds to bring 19 people together.

Eli R. We are trying to cut administrative costs.

Myrna G. Why don't we have 5 minutes recess to discuss within our communities.

Isabelle B. (Mt. Edge). If we regionalize, funds will come thru to SE.

Marlene J. Two reasons for 19-man committee: (1) You are in there pushing for community. (2) I don't see problems if we go per capita. I can see the need for the committee. Our legal tribal council (THCC) can seek funds for our communities. We should try this and work together. We have to work for the best needs of our children without political fighting. We will have some input where we don't have input now.

Kasaana. We have 25 children in school, we have inadequate facilities. We have talked to Marshall Biad, so far nothing appropriated for Kasaan. THCC was given $19,000 for a generator 2 months ago, it's still not there. Kasaan is forgotten because it is a small community. I feel if we are not represented in person we will be forgotten again.

Isabelle B. Kasaan could be represented—I don't see a problem.

Marlene J. I would like to explain what happened on JOMRC. We were effective—Wrangell and Petersburg were only communities not funded two years ago. Last year the Area Director changed our role—we became JOMRC to him. Sole purpose to review program. I could not review SE. There was politics used. Area Director does not listen to JOMRC.

Phillip. T. Wasn't the problem that there was not enough monies for all programs?

Marlene J. Yes, but some programs funded were not even legal. Let's take a 5-minute break to discuss among our communities whether or not to regionalize with THCC providing technical assistance under direction of an Executive Committee. Also, how should the committee be—i.e. one representative from each community or a 5-man board. Let's go around table.

Yakutat. No consensus—hold off and discuss with Parent Committee.

Petersburg. I'm all for regionalizing one member from each community.

Sitka. Steering or interim committee to represent at first. Regionalize, provided we know authority, guidelines. Community rep.—but should it be Parent Committee member or member of community.

Kasaan and Angoon. We would like to see regional concept implemented. 1st year—representative from each community until we get organized—then executive 5-man committee. Also, field counselors to come to each village.

Hoonah. Representative from each community and regionalize.

Craig. Yes, we are in favor of regionalizing to get most benefit for children.

Pelican. Regional and executive board (5-man).

Haines. Regional—one from each community to get started.

Wrangell. One from each with executive committee chosen from 19.

Klawock. Regional, one from each.

Metlakatla. Go along with it, do we request extra travel funds through our grant? Agree with Sitka on establishing authority and guidelines.

Ketchikan. We don't feel we should make a decision without parent committee.

Juneau. I can't speak for parent committee—will report to them.

Marlene J. Majority consensus—one member from each community. Where do we go from here?

Eli R. Juneau, Ketchikan and Yakutat will report to us later. Funding—if we can get resolutions from each community we can prepare proposal for training of parent committees regionalization.

Craig. How is representation going to be done so we won't have the same situation where Ketchikan, Juneau and Yakutat cannot make decision until they meet with parent committee?

Eli R. I volunteer SE Agency staff available on request for assistance if you so desire—parent committee training, proposal writing, etc.

Craig. What were our accomplishments? I would like to have ½ hour brainstorming sessions.

Ketchikan. Why were we not informed of this meeting before Monday?

F. W. Dunne. I expected Ed Thomas to inform IEA. (Invitations were mailed to Parent Committee Chairman using school district P.O. Box—most likely still at school.)

Marlene J. Consensus to definitely go regional and one member from each community. I will inform JOMRC next week of the results of this meeting.

Discussion followed on where to apply to JOM or IEA for regionalizing. IEA would take too long for fiscal year 1976.

Marlene J. Any objection to THCC apply to JOM for technical assistance—ask for roughly $100,000.

Curly D. (Craig). I think smaller communities really need field counselors for high school students. They did a good job.

Marlene J. What will BIA's reaction be if our consensus is that the Field Counselor Program be funded?

Phillip T. We will go in direction that JOMRC recommends. Right now, priority to help and better programs that are now being operated and fund those on A list not funded. That means the Field Counselor Program will be funded.

Marlene J. Since Sitka's program was on C list, they would not be funded. Should the THCC apply for field counselor technical assistance?

Margaret Demmert. I move that THCC Field Counselor/Technical Assistance Program funded under $800,000 JOM moneys for duration of this fiscal year.

Seconded by Lloyd. Questions. All, ayes.

Eli R. I suggest now that you go back to communities, make a resolution with Parent Committee that THCC, SE Agency provide technical assistance, field counselor to IEA, JOM moneys and to high school students. I have been in number of seminars; you people are to be commended for your participation. Certainly not a rubber stamp. You discuss thoroughly.

Regarding the questionnaire I am passing out, if you are going to be critical, please put a recommendation down so we can change.

Where do we go from here, the SE Agency and our staff will develop a resolution to get tribal consensus to offer you technical assistance with your education programs, etc. We will also apply for IEA funds for technical assistance program. We will coordinate meetings in your villages to discuss technical assistance program. Also, try to find out what happened to Kasaan's generator.

Willard Jones, Ketchikan Native Coop., P.O. Box 491, Ketchikan, Ak. 99901. Supplies beads, skins, etc. Also, catalogs.

Comments From Ketchikan Meeting Survey

I feel that there still needs to be more effort to identify basic needs and goals. One impression that I came away with was the feeling that after 200 years the basic goal of much of Indian Education remains the same—integration into the dominant society often at the cost of self identity.

A comment on question No. 2.—How about print-outs on specific people to contact on different grants available to students including information in foundation grants.

Comments and a question on question No. 5 on JOM funds.—Where do you obtain applications? Could have had more discussion for those communities who have not applied. (Same question for No. 6 on IEA funds.)

Not enough doughnuts and coffee! I think the outcome of the meeting and the discussion to regionalize, very worth while—Parent Committees are now aware that they can ask S.E. Agency for assistance!

Need help with getting parents interested in the programs.

You should have more conferences down in Southeast Alaska.

A comment on question No. 1 on Indian Self-Determination and Education Assistance Act—I expect the written information provided will clear up some of my questions. Thanks.

A comment on question Nos. 5 and 6 (JOM and IEA)—Technical Assistance needed now!

One of the best I have been to.

Enjoyed the conference very much.

Introduction of speakers were inadequate.

I feel that Parent Committees should have some indoctrination as to their purposes and potential. We certainly need help in drafting our applications for funds and in ways to involve and educate parents in value of the programs and convince them that their participation is not only welcome but necessary.

Need more conferences and training for smaller towns, in this area or Juneau—not as far away as Anchorage.

Found the meetings to be very interesting.

Good meeting—night meetings were very worth while too—it is important to meet with all our people and hear what is going on.

ATTACHMENT NO. 5

JANUARY 26, 1976.

Mr. CLARENCE ANTIOQUIA,
Area Director, Bureau of Indian Affairs,
Juneau, Alaska.

DEAR MR. ANTIOQUIA: This is to advise the Central Council of the Tlingit and Haida Indians of Alaska is preparing a proposal to administer the Johnson O'Malley Education Programs throughout Southeast Alaska for fiscal year 1977 under the authority granted by Section 102 of Title I of the Indian Self-Determination and Education Assistance Act (Public Law 93-638, 88 Stat. 2203). Our proposal will be ready on or before February 6, 1976.

The Central Council sponsored an all Southeast Alaska Indian Education meeting in Ketchikan on January 20-21, 1976. This meeting was attended by representatives of Indian Education Act Parent Committees, Johnson O'Malley Act Parent Committees, Johnson O'Malley Review Committee, and many others associated with Indian Education (a complete roster is attached). It was the consensus of this group that the Central Council regionalize all Indian Education Programs in Southeast Alaska.

Sincerely yours,

JUANITA CORWIN,
Executive Director.

Attachments.

1. Did the presentation given by John Hope on PL 93-638, Indian Self-Determination and Education Assistance Act provide you with worth while information?

not enough adequate a lot
/1 / 2 / 3 / 4 / 5 / 6 / 7 / 8 / 9 / 10/
(3) (2) (12) (3)(1) (3)(3)(3) No answer (3)

2. Did the presentation on Higher Education provide you with information you can inform your high school seniors about?

not enough adequate a lot
/1 /2 / 3 / 4 / 5 / 6 / 7 / 8 / 9 / 10/
(1) (1)(2)(9) (5) (1)(5)(4)(3) No answer (2)

3. Did the presentation and hand-out concerning sources of funding for public schools help you in better understanding what sources are available?

not enough adequate a lot
/1 / 2 / 3 / 4 / 5 / 6 / 7 / 8 / 9 / 10/
(1)(4) (7)(1) (2)(9) (3)(4) No answer (2)

4. Did you gain enough information on the Employment Assistance/Adult Vocational Education Program to inform students and adults what is available for vocational training?

not enough adequate a lot
/1 / 2 / 3 /4 / 5 / 6 / 7 / 8 / 9 / 10/
(2) (1)(1)(7)(9)(3)(4) (3)(3)

5. Was the presentation on the Johnson O'Malley funds adequate to help you in applying for a grant?

not enough adequate a lot
/1 / 2 / 3 / 4 / 5 / 6 / 7 / 8 / 9 / 10/
(4) (7)(9) (3)(3)(6) (1)

6. Was the presentation on the Indian Education Act Program (IEA) adequate to help you on applying for a grant?

not enough adequate a lot
/1 / 2 / 3 / 4 / 5 / 6 / 7 / 8 / 9 / 10/
(1)(3)(10)(4)(5) (5)(3) (1) No answer (1)

7. Was the presentation on the proposed Career Education Program by Don Barrett adequate to help you understand the goals of the program?

not enough adequate a lot
/1 / 2 / 3 / 4 / 5 / 6 / 7 / 8 / 9 / 10/
(2)(3) (8)(5) (6)(1)(4) (3) No answer (1)

8. *Did you gain worth while information from the group discussions to take back to your community on improving your Parent Committees and meeting the education needs of the children and parents?*

not enough				*adequate*				*a lot*	
1	2	3	4	5	6	7	8	9	10
(1)		(3)	(1)	(4)	(3)	(2)	(3)	(10)	(6)

9. *Do you feel that the staff was prepared in the area they spoke?*

not enough				*adequate*				*a lot*	
1	2	3	4	5	6	7	8	9	10
			(1)	(5)	(5)	(4)	(6)	(4)	(7)

No answer (1)

10. *Were travel and housing accomodations adequate?*

poor				*adequate*				*good*	
1	2	3	4	5	6	7	8	9	10
		(1)		(3)	(5)	(2)	(2)	(4)	(12)

No answer (4)

11. *Was the meeting hall adequate?*

poor				*adequate*				*good*	
1	2	3	4	5	6	7	8	9	10
				(4)	(8)	(1)	(3)	(6)	(11)

12. *Did you enjoy the conference?*

poor				*adequate*				*good*	
1	2	3	4	5	6	7	8	9	10
				(4)	(1)	(1)	(3)	(6)	(18)

Any comments you have regarding the Southeast Alaska Indian Education meeting, the Tlingit and Haida Central Council, the needs of your community, problems of your Parent Committee would be most helpful in evaluating the meeting and determining the kind of assistance Tlingit and Haida Central Council can give your community.

ATTACHMENT NO. 6

FEBRUARY 24, 1976.

CLARENCE ANTIOQUIA,
Area Director, Bureau of Indian Affairs,
Juneau, Alaska.

DEAR MR. ANTIOQUIA: The enclosed Johnson-O'Malley proposal for providing technical assistance and training to Parent Committees of Southeastern Alaska Native communities is following the recommendations of the Southeast Alaska Indian Education Committee and the Johnson-O'Malley Review Committee. It has been expressed by the committees that priority be given to training Parent Committees and regional personnel be able to administer the JOM Program on a regional basis, since AFN-JOM will not be the prime contractor next year.

We understand that FY-75 close out of the prime contract and subcontracts will be completed by March 15, 1976 and that the lapse funds would be used to fund these types of proposals. The $800,000 received earlier this month could also be used to fund this proposal.

Please give this proposal consideration as soon as possible.

Sincerely yours,

JUANITA CORWIN, *Executive Director.*

Enclosures.

TLINGIT AND HAIDA CENTRAL COUNCIL, JOHNSON-O'MALLEY PROPOSAL, PARENT RESPONSIBILITIES PROGRAM

INTRODUCTION

Parent Responsibilities Program

Southeast Alaska is an area approximately 400 miles in length and 75 miles in width. The 19 communities in Southeast Alaska extend from Yakutat in the north, to Metlakatla in the south. The economic base of the area is comprised mostly of the fishing and timber industry. The estimated total population of these communities is 43,400, of which 13,000 are Native.

During the 1974–75 school year, a Johnson-O'Malley Field Counselor Program was established to serve the 19 communities. The field counselors operated out of Southeast Alaska Agency, Tlingit and Haida Central Council, and provided career counseling to high school students and offered technical assistance to JOM programs.

The field counselors were very successful as most communities did not have Native counselors and the students, for the most part, did not utilize the services of the non-Native counselors, consequently many drop-out students were persuaded by the counselors to go back to school to get a GED and/or to further their education beyond high school.

The technical assistance was not originally part of the Field Counselor Program but came about due to the numerous requests from communities for assistance or organizing their Parent Committees, training their Parent Committees, administering their JOM programs, and writing JOM proposals. These activities occupied approximately 40% of the counselor's time, and they still could not fully meet the requests for technical assistance.

Educational needs

A Southeast Alaska Native Education Meeting was held in Ketchikan, Alaska on January 20–21, 1976. The official participants were members of Johnson-O'Malley Act or Indian Education Act Parent Committees. These participants represented virtually all communities in Southeast Alaska with a predominant or sizeable Native population.

The group elected a chairperson in order to conduct official business and to make official decisions. They decided that the Southeast Alaska Agency of the Central Council of the Tlingit and Haida Indians of Alaska regionalize all Native Education programs in Southeast Alaska. They also determined that all communities in Southeast Alaska needed both administrative and education technical assistance to effectively utilize the educational resources currently available from the Johnson-O'Malley Act and the Indian Education Act.

Therefore; we propose to provide a program of technical assistance to the communities of Southeast Alaska.

Objectives

1. Parents will be knowledgeable of the responsibilities of their school district.
2. Parents will be knowledgeable of the responsibilities of a school board member.
3. Parents will be knowledgeable of the role and responsibilities of a JOM and IEA Parent Committee member.
4. Parents will be knowledgeable of the purpose of the Johnson-O'Malley Act and the Indian Education Act.
5. Form Parent Committees throughout Southeast Alaska which will conform to Public Law 93–638.
6. Parent Committees will be able to effectively exercise the approval and disapproval authority provided them by Public Law 93–638.

Activities

1. Provide administrative and educational technical assistance to all communities in Southeast Alaska with a sizeable Native population. This will be done by utilizing three education technicians hired according to their expertise/experience in the areas of budget, education, administration, and knowledge of Southeast Alaska Natives.
2. Develop parent training utilizing the Alaska Department of Education, Bureau of Indian Affairs, and Alaska Federation of Natives as resource people.
3. Conduct parent training both at regional meetings and at the community level.

Evaluation

Evaluation of the program will be the approval of JOM and IEA programs developed with technical assistance help and the number of parents involved in the planning of a JOM or IEA program for their local school district.

Parent responsibilities

100	personnel:	
101	Career Education Coordinator—in kind provided by BIA and CCTHIA	0
102	Education Technicians—3 at $641 biweekly times 15 pay periods	$28, 845. 00
103	Secretary—1 at $515 bi-weekly times 15 pay periods	7, 725. 00
	Total	36, 570. 00
200	fringe benefits	
201	FICA—5.85 percent	2, 140. 00
202	Unemployment insurance—4 percent	1, 460. 00
203	Workman's compensation—.71 percent	260. 00
	Total	3, 860. 00
400	travel, 401 Staff, total	11, 760. 00
500	per diem, 501 Staff, total	18, 125. 00
600	office expenses:	
601	Rent	0
602	Supplies—$50/mo. times 7 months	350. 00
603	Telephone	1, 548. 00
604	Copying—$50 per month times 7 months	350. 00
605	Printing	750. 00
	Total	2, 998. 00
700	equipment, office, 701 Provided in kind by SAA-CCTHIA	0
800	Staff and native education committee training:	
801	Staff	1, 783. 00
802	Parent committee	14, 850. 00
	Total	16, 633. 00
900	Equipment, instructional, 901 Provided in kind by SAA-CCTHIA	0
1000	Supplies, instructional, 1001 Provided in kind by SAA-CCTHIA	0
1100	Indirect costs, 1101 18 percent of direct costs. The CCTHIA overhead rate with the BIA is currently being negotiated with the Office of Audit and Investigation, U.S. Department of the Interior. 18 percent times $89,946 equals $16,190.28, total	16, 190. 28
	Grand total	106, 186. 28

BUDGET EXPLANATION BY LINE ITEM

100 Personnel

101—The coordination will be all in kind provided by the Bureau of Indian Affairs and the Central Council of the Tlingit and Haida Indians of Alaska through the Southeast Alaska Agency. The program will be under the direction of the Native Agency Director of the Southeast Alaska Agency.

400 Travel

401.01—Seven trips will be made to 15 Southeast communities at the average transportation cost of $75.00. The purpose of these trips will be to conduct seven monthly parent training seminars (75×15×$75=$7,875).

401.02—Three trips to 15 communities for three work sessions with Parent Committees to develop proposals (3×15×$75=$3,375).

401.03—Trip by one Education Technician from Ketchikan to Juneau to participate in regional Parent Committee training session in April (1×$85=$85).

401.04—Trip by two Education Technicians from Juneau and one Education Technician from Ketchikan to Sitka to participate in regional Parent Committee training session in August (5×$85=$255).

401.05—Trip by two Education Technicians from Juneau to Ketchikan to participate in regional Parent Committee training session in June (2×$85=$170).

500 Per diem

501.01—Corresponds with 401.01 trips—$50×15(communities)×2(average length)×7(trips)=$10,500.

501.02—$50×15×3×3=$6,750.

501.03—$50×3.5=$175.

501.04—$50×3.5×3=$525.

501.05—$50×3.5×2=$350.

600 Office expenses

601—Rent—space will be provided by the Southeast Alaska Agency, CCTHIA.

603—Telephone—adequate lines in Juneau Office, however, will have to install another line in Ketchikan ($15 installation+$19/mo.×7=$148). Long distance calls will be charged to program ($200/mo.×7=$1400).

605—Printing of three education newsletters @ $250. To provide up-to-date information to parents.

800 Staff and native education committee training

801—Three Education Technicians to JOM workshop in Anchorage. Two from Juneau ($154×2=$308) and one from Ketchikan ($200) (Per diem $50×4×3=$600). Bi-monthly stac training to be conducted in Juneau requiring Education Technician travel from Ketchikan (3×$75=$225) (Per diem $50×9=$450).

802—Three regional training sessions requiring travel of one Parent Committee member from each community to Juneau in April (18 representatives×100=$1800) (Per diem $50×18×3.5=$3,150), to Sitka in June (18×100=$1800) (Per diem $50×18×3.5=$3,150), and to Ketchikan in August (18×100=$1800) (Per diem $50×18×3.5=$3,150).

CENTRAL COUNCIL OF THE TLINGIT AND HAIDA INDIANS OF ALASKA,
SOUTHEAST ALASKA AGENCY,
Juneau, Alaska.

Position description: Secretary
Grade: 5

A. Supervision and guidance received:

Incumbent performs duties under the general and technical supervision of the division head. Performance is reviewed through a check of correspondence, records, reports, and files. Guidelines consist of the contract and materials referred to in the document.

B. Representative duties:

1. Screens phone calls to the office of the supervisor as well as visitors. Callers include representatives of the Native Agency, individual Natives, and representatives from other agencies. Determines whether to refer visitors and/or calls to the supervisor or other staff members. Personally furnishes information on matters within her knowledge of supervisors views and plans, or which can be obtained from the files. Handles all appointments with and for the supervisor. Assembles previous correspondence or related information on subject to be discussed.
2. Makes arrangements for regular or special conferences, sees that space is ready, notifies participants, takes notes, prepares summaries on conference as well as follow-up on matters to accomplish.
3. Receives incoming correspondence and attaches background information requiring supervisors attention. Composes a variety of correspondence relating to activities of section.
4. Assists supervisor in preparation of reports, special correspondence by assembling material from files. Also compiles statistical data relative to funds needs.
5. Types and prepares travel vouchers for section according to provisions in the contract. Also makes travel arrangements as required, orders supplies and maintains reading files.
6. Types letters, memoranda, reports, etc., and returns to supervisor in finished form with correct format, spelling, punctuation, etc.
7. Sets up and maintains all correspondence and subject matter files necessary for section activities.

C. Supervision exercised:

None.

CENTRAL COUNCIL OF THE TLINGIT AND HAIDA INDIANS OF ALASKA,
SOUTHEAST ALASKA AGENCY,
Juneau, Alaska.

Job description: Education Technician
Grade: 7

A. Supervision and guidance received:

Incumbent works under the general administrative supervision of the Career Education Coordinator with technical assistance available from the Education Coordinator, Supervisory Employment Assistance Officer, and Administrative Manager of the Southeast Alaska Agency. Guidelines consist of CFR 25, Part 273—Education Contracts Under Johnson O'Malley Act—and the Johnson O'Malley contract between the Central Council of the Tlingit and Haida Indians of Alaska and the Bureau of Indian Affairs.

B. Representative duties:

1. Assist communities, in assigned district, organize Parent Committees which conform to CFR 25, Part 273.
2. Assist supervisor develop parent training courses.
3. Conduct parent training in assigned district.
4. Assist communities develop JOM proposals which conform with CFR 25, Part 273 by providing technical assistance as it relates to educational concepts, administration, and budget.
5. Finalizes JOM proposals with Parent Committee and supervisor.
6. Provides Parent Committees with current educational material necessary to effectively administer an educational program.
7. Is the liaison between community Parent Committee and the program administrators.
8. Work closely with Parent Committees to determine educational need of their community.
9. Other duties as assigned.

C. Supervison exercised:

None.

D. Qualifications:

1. Three years of general experience plus one year of specialized experience or bachelors degree in appropriate field, such as but not limited to, education, administration, sociology, psychology. Also, any combination of college education and general experience plus one year of specialized experience.
2. Be familiar with Southeast Alaska Region.
3. Be able to relate to Native parents, Native students, and school officials.
4. Be willing to travel frequently by small aircraft.

ATTACHMENT No. 7

TLINGIT AND HAIDA CENTRAL COUNCIL, JOHNSON-O'MALLEY START-OFF PROPOSAL

I. Introduction

The Central Council serves as the general governing body of the Tlingit and Haida Indians of Alaska to promote their welfare and to exercise other powers granted tribal governing bodies through federal legislation.

Southeast Alaska is an area approximately 400 miles in length and 75 miles in width. The 24 communities in S.E. Alaska extend from Yakutat in the north to Ketchikan in the south. The economic base of the area is comprised mostly of the fishing and timber industry. The estimated total population of these communities is 43,400, of which 13,000 are Native.

The need for technical assistance came about by the numerous requests from communities for assistance on organizing their Parent Committees, to train their Parent Committees in administering their Johnson-O'Malley programs, and writing JOM proposals.

Tlingit and Haida Central Council, Southeast Alaska Agency held a S.E. Alaska Native Education Meeting in Ketchikan, Alaska on January 20–21, 1976. The official participants were members of JOM Act or IEA Parent Committees.

These participants represented virtually all communities in S.E. Alaska with a predominant or sizeable Native population.

The group elected a chairperson in order to conduct official business and to make official decisions. They decided that the S.E. Agency of the Central Council of the Tlingit and Haida Indians of Alaska regionalize all Native Education programs in S.E. Alaska. They also determined that all communities in S.E. Alaska need both administrative and education technical assistance of effectively utilizing the educational resources currently available from the JOM Act and the IEA.

II. Educational needs

A Southeast Alaska Native Education Meeting was held in Ketchikan, Alaska on January 20–21, 1976. The official participants were members of JOM Act or IEA Parent Committees. These participants represented virtually all communities in Southeast Alaska with a predominant or sizeable Native population.

The group elected a chairperson in order to conduct official business and to make official decisions. They decided that the S.E. Agency of the Central Council of the Tlingit and Haida Indians of Alaska regionalize all Native Education programs in Southeast Alaska. They also determined that all communities in Southeast Alaska needed both administrative and education technical assistance to effectively utilize the educational resources currently available from the JOM Act and the IEA.

III. Objectives

1. Parents will be knowledgeable of the responsibilities of their school district.
2. Parents will be knowledgeable of the responsibilities of a school board member.
3. Parents will be knowledgeable of the role and responsibilities of a JOM and IEA Parent Committee member.
4. Parents will be knowledgeable of the purpose of the Johnson-O'Malley Act and the Indian Education Act.
5. Form Parent Committees throughout Southeast Alaska which will conform to Public Law 93–638.
6. Parent Committees will be able to effectively exercise the approval and disapproval authority provided them by Public Law 93–638.
7. Develop with S.E. Alaska Agency concepts for Prime Contract FY–1977.

IV. Activities

1. Provide administrative and educational technical assistance to all communities in Southeast Alaska with a sizeable Native population. This will be done by utilizing three education technicians hired according to their expertise/experience in the areas of budget, education, administration, and knowledge of Southeast Alaska Natives.
2. Develop parent training utilizing the Alaska Department of Education, Bureau of Indian Affairs, and Alaska Federation of Natives as resource people.
3. Conduct parent training both at regional meetings and at the community level.

V. Evaluation

Evaluation of the program will be the approval of JOM and IEA programs developed with technical assistance help and the number of parents involved in the planning of a JOM or IEA program for their local school district.

100	Personnel:	
101	Career Education Coordinator—in kind provided by BIA and CCTHIA	0
102	Education Technicians—3 at $566.65×8 bi-weekly pay periods	$13,599.60
103	Secretary—in kind provided by CCTHIA	0
	Total	13,599.60

200	Fringe benefits:	
	201 FICA—5.85 percent	$795.58
	202 Unemployment Insurance—4 percent	543.98
	203 Workman's Compensation—.72 percent	97.92
	Total	1,437.48
400	Travel, 401 Staff, total	1,285.00
500	Per diem, 501 Staff, total	1,927.00
700	Office equipment—in kind	
800	Native education committee training:	
	801 Juneau regional session	9,523.30
	802 Juneau regional session	4,891.40
	Total	14,404.00
900	Equipment, instructional—in kind	
1000	Supplies, instructional—in kind	
1100	Indirect costs, 1101 45.5 percent of direct salary costs. The CCTHIA overhead rate with the BIA has been negotiated with the Office of Audit and Investigation, U.S. Department of Interior, 45.5 percent times 13,590.60, total	6,187.82
	Grand total	38,841.60
Total direct costs		32,653.78
Total indirect costs		6,187.82
	Total proposal	38,841.60

BUDGET EXPLANATION BY LINE ITEM

100 Personnel

101 The coordination will be all in kind provided by the Bureau of Indian Affairs and the Central Council of the Tlingit and Haida Indians of Alaska through the Southeast Alaska Agency. The program will be under the direction of the Native Agency Director of the Southeast Alaska Agency.

400 Travel

401.01 One trip will be made to 15 S.E. communities at the average transportation cost of $75.00. The purpose of these trips will be to conduct seven monthly parent training seminars (1 × 15 × $75=$1,125.00).

401.02 Two trips by one Education Technician from Ketchikan to Juneau to participate in regional Parent Committee training session in April (2 × $85=$170.00)

500 Per diem

501.01 Corresponds with 401.01 trips—$50×15 (communities)×2 (average length)×1 (trip)=$1,500.00).

501.02 $61×3.5×2=$427.00

600 Office expenses—in kind

800 Native education committee training

801 One regional training session requiring travel of two Parent Committee members from 15 communities plus our JOMEC Committee person ($9,523.30).

802 One regional training session requiring travel of one Parent Committee member from 15 communities plus our JOMEC Committee person ($4,891.40).

ATTACHMENT NO. 8

MEMORANDUM

Date: June 17, 1976
To: Area Director, JAO, Attention: Contract Administrator
From: Chief Negotiator, Southeast Alaska Agency
Subject: Modification IV—Contract Number E00C14201229

Please modify above contract by revising the budget per attached. Major modifications include the Contract Evaluation; Program Planning and Evaluation; Equipment Purchases; Personnel Services; and Social Services Grants. All other changes are minor ones to reflect more accurate cost projection.

Members of the Contracting Team will be able to meet at your convenience. Please arrange the meeting through Eli Reyes, Administrative Manager for this Agency.

The modification for the Transitional Quarter will be ready for negotiations by June 23, 1976.

JOSEPH G. WILSON,
Chief Negotiator.

Attachment.

ATTACHMENT NO 10

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
Juneau, Alaska, August 23, 1976.

Mr. RAY PADDOCK,
President, Central Council of the Tlingit and Haida Indians of Alaska, Juneau, Alaska.

DEAR MR. PADDOCK: Your application proposal for the Johnson O'Malley Contract programs and services to Southeast Alaska was received on August 11, 1976. It was reviewed by both the Educational and contracting staffs.

Based on interpretation of our authority under the Indian Self Determination and Education Assistance Act, the regulations as outlined by Part 273, Johnson O'Malley contracts, and Part 271, contracts under Indian Self-Determination, and guidelines received from our Central Office, we find that we need additional information and data before the proposal can be negotiated and a contract awarded.

We sincerely regret any misinterpretation by CCTTIA as to how they could legally contract. It appears that CCTTIA assumed that Johnson O'Malley was an agency function synonymous with such administrative entities as Employment Assistance, Social Services, etc. This is not the case with the Johnson O'Malley program. Johnson O'Malley is an entitlement program for the entire Bureau with Alaska getting its fair share. Funding for this program is distributed on a per capita basis for eligible students and pre school children. The local Indian Education committees determine the needs, and approve the services and programs for their children. Johnson O'Malley programs are not a separate and distinct administrative function and therefore it is not possible to contract for as it as such.

Under Section 273.11(c) a Tribal Organization mbust meet the requirements in Section 273.20 in addition to those in Section 271.14. The main thrust here is the *education plan* as outlined in Section 271.14. These plans were one of the omissions in your application.

Plans from all Indian Education Committees should be included in order for the government to determine what type of supplemental services are being provided. These plans and programs should also be supported by a line item budget to facilitate accountability as pointed out in Section 273.20(e). The applications also should include a signed approval by each Indian Education Committee along with Organizational documents and by-laws of the IEC, including proper signatures of their officers.

There are additional requirements pointed out in Parts 271 and 273 which we will be glad to discuss with CCTTIA in order to get the application and its requirements within the purview of P.L. 93-638 for a Johnson O'Malley contract.

We hope that meeting these requirements will not unduly inconvenience your staff or cause too much delay in geting the JOM contract underway for the Southeast area villages.

Sincerely,

JOSEPH L. CHASE,
Contract Administrator.

ATTACHMENT NO. 11

AUGUST 27, 1976.

CLARENCE ANTIOQUIA,
Area Director, Bureau of Indian Affairs, JAO,
P.O. Box 3–8000, Juneau, Alaska.

DEAR MR. ANTIOQUIA: This is to officially appeal the Contract Administrator's decision contained in his letter dated August 23, 1976. A copy of this letter is attached.

Specifically, the third, fourth, and fifth paragraphs indicate we cannot contract for the administration of the Johnson O'Malley Act program under 25 CFR 271, but must contract under 25 CFR 273. More specifically, we are a prime contractor as stated in section 273.1(c).

If you look closely at Section 273.1(c), you will find it does not cover us, it relates only to supplemental and operational support. In the definitions provided in Section 273.2 (1) and (t), you can see the Central Council of the Tlingit and Haida Indians of Alaska is clearly not contracting for supplemental and operational support. Reference in the letter to Section 273.11(c) again is clearly related to supplemental and operational support.

It is our intent to contract for the administration of the Johnson O'Malley Act programs per 25 CFR 271.1(a).

Sincerely yours,

RAYMOND E. PADDOCK, JR.,
President.

Attachment.

SOUTHEAST ALASKA REGIONAL HEALTH CORP.,
Juneau, Alaska, September 1, 1976.

Hon. JAMES ABOUREZK,
Chairman of the American Indian Policy Review Commission, Congress of the United States, House Office Building, Annex No. 2, Washington, D.C.

DEAR SENATOR ABOUREZK: I would like to thank the American Indian Policy Review Commission for permitting me to present my testimony.

My name is Conrad P. Baines, Jr.; I am the executive director of the Southeast Alaska Regional Health Corporation. The corporation covers the same geographical area as Sealaska Corporation and the Central Council of Tlingit and Haida Indians of Alaska. The health corporation serves the Tlingit, Haida and Tsimpshin Indians of Southeast Alaska with the mandate to be a strong advocate and to improve their health status to the highest degree with as much community involvement as possible.

My statements have not been approved by our board of directors and should not be construed as policy. I am speaking personally and drawing from my experience of the past year as an executive director.

Although the intent and thrust of the hearing is to obtain testimony on Public Law 93–638 and contracting, I would like to offer testimony on other related and pertinent areas in manpower, facilities, program areas that need funding, Public Law 93–641 problem areas and the Indian Health Care Improvement Act.

CONTRACTING

SEARHC is a private non-profit health corporation. For the period July 1, 1975 to September 30, 1976, SEARHC was awarded three contracts from the Indian Health Service area office in Anchorage. The contracts were as follows:

(1) Contract No. 243–75–0552, a cost reimbursement contract to develop the administrative capabilities of the health corporation;

(2) Contract No. 243–76–0032, a fixed price contract to provide primary health care through our health aides in the Native communities where little or no primary health care exists; and,

(3) Contract No. 243–76–0164, for purposes of training our employees in contract administration and finance.

The amounts of the contracts were as follows:

Community development	$214, 240
Community health aide program	224, 442
Staff training	6, 600
Total IHS funds	445, 283

There are several problem areas in the contracting process that we find objectionable and should be considered by the policy review commission. For the coming year, the above contracts will be combined into one reimbursement contract. The areas that I wish to bring to your attention are as follows:

(1) *Cost Reimbursement Contracts with No Cash Advance.*—We find this objectionable for obvious reasons. SEARHC must rely upon Control Council for daily cash flow.

(2) *Paternalistic Attitude of Contract and Project Officers.*—The "would be" contractor has very little voice in the negotiation proceedings. A legal contract advisor (lawyer) is not an allowable cost. When a tribe negotiates for a contract, legal counsel should be made available at no cost so negotiations with the contract officer can be made on equal footing. In the past, all contract requirements were virtually spelled out by the contract officer with little regard to tribal input. This attitude is clearly documented by the Alaska Federation of Natives (AFN) and the Association of Regional Health Directors (ARHD). The Association is composed of the directors of 12 Native health corporations. The August 30 letter from Carl Jack, Director of AFN Health Affairs, to Gerald Ivey, Area Director of Alaska Area Native Health Service (AANHS), is submitted as documentation of the contracting situation.

(3) *Treatment of Indirect Costs.*—Whenever we negotiate a contract amount, indirect costs must come from the negotiated amount therefore decreasing the amount of services that is to be performed in the contract. Many contracts have no provision for indirect costs as an allowable cost. The Indian Health Service requires strict accounting of all funds; but to allow little or no indirect costs is a conflict of interest.

(4) *Budget Revision.*—The contracts that IHS initiates require a five percent (5%) or $5,000 allowable transfer of line items. Any variance from the 5% flexibility is an unallowable cost. In order to get a budget amended, the contract allows the contract officer 30 days to respond to the proposed budget amendment. We find this 30 days clearly objectionable and unworkable. This response time must be reduced to a much shorter workable time, such as five (5) working days.

INDIAN HEALTH CARE IMPROVEMENT ACT

Testimony would also like to be provided on the Indian Health Care Improvement Act. First of all, we would like to reaffirm our support for the act and would like to emphasize the need for the bill to be passed in the $2 billion magnitude. The projected estimated unmet needs for the Indian health services in Southeastern Alaska is in the vicinity of $5.5 million. The documentation of this figure is presented within the Mt. Edgecumbe Service Unit Operating Plan. This plan has been obtained from Arthur Willman, Service Unit Director.

The Indian Health Care Improvement Act provides for Indian manpower development. This provision is needed in order to truly fulfill goals of Indian Self-Determination. Since the inception of SEARHC April 1975, one of the main problems we have had is finding Indian manpower with formal education and experience in the health field. Indian people with administrative and/or clinical background are virtually nonexistent. To provide an example, since the inception of SEARHC, as the executive director, I have been the only staff member having a masters degree in a health related field. Information drawn from the Association of American Indian Physicians, shows that there exists no Tlingit physicians anywhere in the United States; however, there is a fourth year dental student who is a Tlingit presently working in Anchorage at this time.

It is common knowledge from IHS printouts that most deaths among Southeast Alaska Indians are related to alcohol abuse and accidents. However, at this time, there exists no alcoholism treatment or injury control programs at the community levels. Most Indian communities in Southeast Alaska have either inadequate clinics or none at all.

Although it is known and documented what the Indian health problems are, there exists no manpower, facilities or programs to combat the problems. The Indian Health Care Improvement Act can help remedy some of the problems.

SEARHC has been corresponding with staff of the Secretary of Health, Education and Welfare as to his position on the bill. Correspondence from David Matthews indicates that he recognizes the need for improvement of health services; but, it is the opinion of the Secretary that the services should be improved through Titles XVIII and XIX of the Social Security Act. SEARHC would like to state our appreciation to the idea of using Medicare and Medicaid as the sole agents for improving health services to the American Indians. The Indian Health Service definitely is the mechanism to improve the services.

PUBLIC LAW 93-641

There is another area that SEARHC would like to make comments on. These comments pertain to Public Law 93-641. The law is the National Health Planning and Resources Development Act of 1974.

Even though the rural medically underserved are the number one priority, in Southeast Alaska these are Indian. There are no travel funds for the people from the area to participate in SEAHSA activities. The importance of PL 93-641 to the Indian community cannot be overlooked. While the HSA will have only review and comment authority where Indian projects are concerned, the HSA, in performing their function, can defer forwarding Indian project proposals to the Secretary of HEW up to 60 days. Such delay could interrupt services supported by various grants and/or contracts. Further, a negative comment concerning Indian proposals could influence the Secretary's decision to fund or not to fund an Indian health proposal. Personally, I feel this seems to be in infringement upon the American Indians special relationship with the United States federal government.

We would like to thank you, Mr. Chairman, for coming to Southeast Alaska and hope you return again.

Sincerely,

CONRAD P. BAINES, JR.,
Executive Director.

Enclosures.

ALASKA FEDERATION OF NATIVES, INC.,
Anchorage, Alaska.

Reference: Fiscal year 1977 Contract Negotiations with the Region Native Organization.

GERALD IVEY,
Area Director, Alaska Area Native Health Service,
Anchorage, Alaska.

DEAR MR. IVEY: Pursuant to the directive of the Association of Regional Health Directors in their August 20th meeting held in the AFN, Inc. Conference Room at which time a quorum was present and the actions taken were during the "General Session", I am herewith, forwarding to you the following list of grievances in regards to how the fiscal year 1977 contracts negotiations were conducted. The so-called negotiations were conducted between the office of Community Health Development and the Regions from August 1, through 16, 1976.

(1) A policy be established by IHS to notify the region a minimum of 15 days prior to any contract negotiations. Furthermore that IHS convey to the Regions as to the content of what is to be negotiated to insure preparating time for the Regions to negotiate the contract.

Reason.—Many of the Regions felt that they were not given sufficient advance notice to negotiate the contract. Some were given as much as 2 days notice that they were to negotiate the contract.

(2) That the Regional Health Corporation/Non-profit organizations be afforded legal council and that the costs incurred be an allowable cost in the contracts and a representative from AFN, Inc., be present during in and all the negotiations.

Reason.—Practically all of the Regions did not have legal council during the so-called negotiations with the exception of Tanana Chiefs Conference, Inc.

(3) IHS and ARHD's establish a Task Force for criteria for fund allocation and that IHS adhere to these fund allocations in contracting with the region.

Reason.—Fund allocation as determined by the ARHD's during the spring meeting was not adhered, too, resulting in the IHS personnel to make arbitrary decisions on Regional entitlements.

(4) A clear definition of the Project Director and the Contracting Officer be strictly adhered too by the IHS personnel during all the negotiations and that all project officers be present during the negotiations.

Reason.—Many of the contracts were negotiated (both technical aspects and Price) without the presence of the Contracting Officer.

(5) No misleading or deceptive information be practiced by IHS personnel (A-OCD) during the so-called negotiations.

Reason.—Many of the Regions felt such misleading and deceptive information was conveyed to them during the so-called negotiations.

(6) Proper attendance of IHS personnel be adhered too during the negotiations.

Reason.—Self-explanatory.

(7) There was lack of professionalism on the part of IHS personnel (A-OCD) which affronts the personal dignity of the representative of the Regional Native organizations.

Reason.—Some derogatory statement were made by IHS personnel regarding various Native organizations which provoked regional dessertions.

(8) IHS conducting negotiations in detrimental manner for future directors which could result in bad relationships between IHS and the Native organization.

Reason.—Self-explanatory.

It was for these reasons cited above that the ARHD's as the representative of their respective regions by majority vote and during the "General Session" on the evening of August 20, 1976 formally took the following actions.

(1) Nullify current contracting process for process for fiscal year 1977.

(2) ARHD's meet with the Area Director, Deputy Director and the Executive Officer to determine confirmed dollars available for fiscal year 1977 contracts.

(3) Reconvene ARHD's to determine Regional Contract allocation.

(4) Renegotiate fiscal year 1977 contracts with legal council with representative from AFN, Inc. present during in and all negotiations.

It is the sincerest desire of the ARHD's to come to a constructive resolution of this matter in a manner of mutual respect for all parties. Therefore, ARHD's is requesting to meet with you, your Deputy Director, Executive Officer, Contracting Officer, Chief Finance Branch and Area Office of Community Development personnel on the afternoon of August 30, 1976 commencing at 2:00 p.m. in your conference room. It is understood that such a meeting will occur on the date and time set above.

Sincerely,

CARL JACK, *Director.*
ALASKA FEDERATION OF NATIVES,
HEALTH AFFAIRS DIVISION.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
PUBLIC HEALTH SERVICE,
HEALTH SERVICES ADMINISTRATION,
Rockville, Md.

CONRAD P. BAINES, Jr.,
Executive Director, Southeast Alaska Regional Health Corp., 130 South Seward Street, Juneau, Alaska.

DEAR MR. BAINES: Your telegram of April 7 to Secretary Mathews concerning the Indian Health Care Improvement Act has been referred to this Agency for reply.

We appreciate your interest in improving and expanding the level of health care services to Indian and Alaska Native peoples. While this Department shares those concerns, we find the Indian Health Care Improvement Act legislation pending in the Congress objectionable. It is our view that the legislation is essentially unnecessary primarily because it does not contain any significant new authority which would enable this Department to better meet the health needs of Indians and Alaska Natives. This bill would mainly authorize funds to be appropriated over the next seven years to expand the Indian Health Service programs to meet identified health needs, but would not appropriate any funds. Since the Indian Health Service is already authorized to expend such funds as the Congress appropriates, the Indian Health Care Improvement Act would not increase the present authorization under which the Indian Health Service now operates.

It is true that the bill would enable the Indian Health Service to collect from Medicaid and Medicare for services it renders to beneficiaries of those two health programs. While we have testified favorably on this proposed authority, we believe it would be better to achieve the same results with a simple amendment to the Medicaid-Medicare portions of the Social Security Act.

The Department and this Administration are committed to the improvement of the health status of Indians and Alaska Natives. Some of those conditions which cause a lowering of the health status are mentioned in your telegram to the Secretary. In keeping with this commitment, the expenditures of the Indian Health Service have increased over 175 percent during the last six years. This growth in expenditures has enabled IHS to make substantial improvements in the health care available to Indian people and Alaska Natives. We believe that these increases and the improvements which they have produced represent firm evidence of the high priority we have placed on improving these essential health services.

In short, the Administration has a firm commitment to continue its pursuit of improved health care for Indians and Alaska Natives, but does not believe the Indian Health Care Improvement legislation would be helpful.

It was thoughtful of you to share your concerns with us as you did. We are always interested to know the views of citizens on issues of immediate concern to the Department.

Sincerely yours,

LOUIS M. HELLMAN, M.D.,
Administrator.

MOUNT EDGECUMBE SERVICE UNIT OPERATING PLAN—COST-OUT OF ADDITIONAL RESOURCE REQUIREMENTS FOR UNMET NEEDS, FISCAL YEAR 1977

Activity	Sub-activity number	Priority and program	Cost-out
		1. Expand dental services:	
Patient care, indirect	36	Increase contract services to provide adult care	$100,000
Field health, dental	52	Personnel: 1 dental assistant, GS-3 (Ketchikan)	10,636
Do	52	Equipment:	
		X-ray film enlarger and viewer (Mount Edgecumbe).	500
		Porta-chair (field equipment)	320
		Portable light (field equipment)	250
		Nitrous oxide-oxygen pipeline system (Ketchikan).	1,400
		Dental handpieces (Ketchikan)	680
		Operatory cabinetry (Ketchikan)	1,536
		Dental console (Ketchikan)	1,729
		Typewriter (Juneau)	480
		Operatory cabinetry (Juneau)	1,536
		Dental console (Juneau)	1,729
		Nitrous oxide-oxygen pipeline system (Juneau)	1,800
		Dental handpieces (Juneau)	250
		Nitrous oxide-oxygen pipeline system (Mount Edgecumbe).	2,000
		Waiting-room furniture (Mount Edgecumbe)	500
		Waiting-room furniture (Ketchikan)	500
		Total	15,210
Do	52	Freight and barging: Freight and barging of above equipment.	1,000
		Total, dental service expansion	126,846
		2. Provide rehabilitation services (alcoholism and chronic care):	
Patient care, direct	12	Renovation—4 North, Mount Edgecumbe Hospital	540,000
Do	11	Equipment:	
		Basic office equipment	8,000
		Furniture	4,000
		Total	12,000
Do	11	Freight and barging of equipment	600

MOUNT EDGECUMBE SERVICE UNIT OPERATING PLAN—COST-OUT OF ADDITIONAL RESOURCE REQUIREMENTS FOR UNMET NEEDS, FISCAL YEAR 1977—Contined

Activity	Sub-activity number	Priority and program	Cost-out
Patient care, direct	11	Personnel:	
		1 counselor, GS-11	$22,128
		1 counselor, GS-9	18,353
		1 work therapist, CS-7	16,540
		1 social work associate, GS-7	16,540
		1 nurse, GS-7	16,540
		1 secretary, GS-4	11,944
		2 licensed practical nurses, GS-4	23,888
		5 nursing assistants, GS-3	53,180
		1 housekeeper, WG-2	17,306
		1 food service worker, WG-2	17,306
		Total	213,725
Patient care	11	Travel and per diem:	
		EOD travel, 5 of above personnel	10,000
		Temporary duty travel	6,000
Patient care, indirect	35	Contract services: Services of psychologist	6,000
		Total, rehabilitative services	788,325
		3. Increase Southeast Alaska Regional Health Corp. funding consumer advice:	
Patient care, direct	15	Consultant fees	5,500
		Travel and per diem	11,500
		Total	17,000
Patient care, indirect	38	4. Purchasing of dentures: Purchase f supplies	25,000
		5. Purchasing of refractions and eyeclasses:	
Do	38	Purchasing of services	30,000
		Purchasing of supplies	20,000
		Total	50,000
		6. Provide additional contract care services:	
Do	33, 35	Increased cost of physician and hospital services	151,000
		Radiologist consultant services	40,000
		Orthopedics program	10,000
		Total	201,000
		7. Increase consultation services:	
Patient care, direct	11	Pathologist consultant services	12,000
		Dermatology program	1,000
		Total	14,000
Area office services	55	8. Village-built clinics—communications, rent, utilities: Services: Lease funds for six clinics.	48,000
		9. Improve community health services:	
Field health, health education	54	Personal:	
		1 health education associate, GS-11	22,128
		1 health system planner, GS-11 (community development specialist—consultant for consumer groups—administrator).	22,128
		Total	44,256
Do	54	Travel and per diem: EOD travel for above personnel.	4,000
Field health, field medical	55	Personnel:	
		1 social work associate, GS-7	16,540
		½ clerk, DMT (nutrition), GS-4	5,972
		Total	22,512
Do	55	Travel and per diem: EOD travel for social work associate.	2,000
Field health, sanitation (OEH)	51	Personnel: ½ clerk, DMT (OEH), GS-4	5,972
Field health, health education	54	Travel and per diem: Village trips by health education associate.	2,000

MOUNT EDGECUMBE SERVICE UNIT OPERATING PLAN—COST-OUT OF ADDITIONAL RESOURCE REQUIREMENTS FOR UNMET NEEDS, FISCAL YEAR 1977—Continued

Activity	Sub-activity number	Priority and program	Cost-out
Field health, field medical	55	Travel and per diem:	
		Village trips by health system planner	$2,500
		Summer health career preceptorships for high school students.	1,000
		CO-STEP medical student village travel	1,500
		Hospital nurse orientation to villages	2,000
		Nutrition and dental education workshops	5,700
		Increased travel by community relations officer for consultation with consumer groups.	2,500
		Total	15,200
Field health, sanitation (OEH)	51	Travel and per diem: Supplemental travel by field sanitarian.	2,000
		Total, Community health service improvement	97,940
Field health, field medical	12	Increase space at the Juneau Health Center: Renovation project.	30,000
Patient care, indirect	11	Expand hospital security services: Expand present contract to provide more evening coverage.	15,000
Patient care, direct	11	Improve communications in the service unit: Communications, rents, utilities, services:	
		Telephone improvements	6,000
		Paging system	5,000
		Toll charge increase	12,000
		Total	23,000
Field health, field medical	98	13. Provide annual pharmacy village visits: Emphasis plan. No additional cost.	
		14. Expand therapy services:	
Patient care, direct	11	Personnel:	
		1 physical therapist, CO-03	19,176
		1 certified inhalation therapist, GS-5	13,367
		Total	32,543
Do	11	Travel and per diem:	
		EOD travel for above personnel	4,000
		Village travel for physical therapist	1,500
		Total	5,500
Do	11	Equipment:	
		Portable percusser	200
		Backup parts	750
		Total	450
Do	11	Space requirements for inhalation therapy program	10,000
		Total, therapy services expansion	48,493
Field health, dental	52	15. Relocate Ketchikan Dental Clinic: Cost of relocation of clinic.	50,000
		16. Increase staffing of facilities:	
Patient care, direct	11	Personnel, Mount Fdgecumbe:	
		1 pharmacy officer, O-3	19,176
		1 hospital receptionist, GS-3	10,636
		Upgrade contract health services clerk position to GS-5.	1,017
		Total	30,829
Do	11	Travel and per diem: EOD travel for pharmacy officer.	2,000
Field health, field medical	55	Personnel, Ketchikan:	
		1 registered nurse, GS-7	16,540
		1 secretary, GS-4	11,944
		Total	28,484
Do	55	Personnel, Juneau: 1 ward clerk, GS-3	10,636
		Total, staffing of facilities increase	71,949

MOUNT EDGECUMBE SERVICE UNIT OPERATING PLAN—COST-OUT OF ADDITIONAL RESOURCE REQUIREMENTS FOR UNMET NEEDS, FISCAL YEAR 1977—Continued

Activity	Sub-activity number	Priority and program	Cost-out
		17. Provide upward mobility training:	
Field health, field medical	70	Part A:	
		Travel and per diem	$12,000
		Tuition and registration	3,000
		Total	15,000
		Part B: Emphasis plan. No additional cost	
		18. Provide staff training in addition to upward mobility:	
Patient care, direct	17	Travel and per diem	14,243
		Tuition and registration	1,500
		Total	15,743
		19. Upgrade equipment and facilities (equipment and projects in addition to those listed in specific individual programs):	
Do	11	To improve laboratory service:	
		Haemonetics model 30 blood processor	10,000
		Photoelectric tachometer	400
		Water deionizer	600
		Date and time machine	350
		Lab intercom	600
		Total	11,950
Do	11	To improve pharmacy services:	
		Remodeling of pharmacy department to eliminate fire hazard of wood cabinetry:	
		McKesson cabinetry	18,000
		Floor tile	3,000
		Pharmacy refrigerator	1,110
		Compact refrigerator (IV storage)	250
		Flammable items storage cabinet	355
		Steel desk	140
		Water still	1,000
		Labor	7,000
		Total	30,855
		Additional equipment:	
		Selectric typewriter	621
		Label machine	535
		Prepack machine	1,125
		Bulk weighing balance	88
		Unit dose packager	1,800
		Prescription balance	240
		Unit dose liquid filler	100
		Replacement carts	1,000
		Miscellaneous office furniture	200
		Total	5,709
Do	11	To improve dietary services:	
		Selectric typewriter	693
		Autoload Filmsound projector and screen	600
		Total	1,293
Do	11	To improve physical therapy services:	
		Drapes	500
		Heat gun	55
		Percussor	200
		Total	755
Do	11	Property and supply:	
		Conveyor belt, gravity	602
		2 Selectric typewriters	1,325
		Refurnish and update single and efficiency quarters	37,864
		Office floor covering (material and installation)	1,228
		Total	41,019

MOUNT EDGECUMBE SERVICE UNIT OPERATING PLAN—COST-OUT OF ADDITIONAL RESOURCE REQUIREMENTS FOR UNMET NEEDS, FISCAL YEAR 1977—Continued

Activity	Sub-activity number	Priority and program	Cost-out
Patient care, direct	11	To improve financial managemem [illegible]on:	
		2 electric typewriters	$1,006
		1 rotary typing chair	48
		1 electric printing calculat	335
		Total	1,389
Do	11	To improve radiology services:	
		Leaded aprons	120
		Table cushion	22
		X-ray calipers	18
		Leaded gloves	95
		Papoose board	56
		Wall rack, with markers	50
		Minute markers and hour marke	30
		Buckstein air insufflator	23
		Graduated cups and tumblers	80
		Cassettes, with screens	2,832
		Total	3,326
Do	11	To improve health records: Remodeling of Health Records Department to provide for long-term growth, set aside special charting area and meet requirements of Privacy Act (Public Law 63-541):	
		3 electric typewriters	1,742
		1 secretarial desk chair	53
		1 transcriber, with attachments	417
		2 recorder (dictating) machines	853
		Desk, with side attachment	180
		Credenza	160
		2 arm swivel desk chairs	204
		Space saver storage system racks	1,590
		Drapes and rods	325
		Carpeting	500
		File cabinet (5-drawer)	145
		File cabinets, 4 sets, specially made	1,500
		Total	3,30000
Do	12	To improve nursing services:	
		Special tub room on geriatric unit	9,000
		Improved toileting facilities	5,000
		Additional equipment:	
		2 portable scales	170
		0 to/opth scope	150
		9 wheelchairs	1,750
		3 electronic thermometers	1,000
		9 wall-mounted sphygmometers	624
		5 TV stands	272
		2 bedside chests, with casters	300
		3 draftsman's chairs	180
		5 lifesaver CPR boards	180
		100 foam rubber pillows	1,188
		Infant examining table	461
		3 Ivac Infusion regulators	1,500
		Carriage for sterilizer	750
		6 Haag Aqua float bed units	600
		Extra large bathtub	1,500
		Zimmer traction setup'	1,000
		3 trapeze setups, complete	245
		Chairbed	155
		2 instrument stands	247
		2 portable Bennett respirator units	750
		Draperies and curtains (all patient rooms)	3,500
		6 wall cabinets	3,000
		Total	33,477
Do	12	Attachments for cardiac monitor:	
		Arrhythmia monitor module	500
		Blood pressure display	500
		Temperature display	500
		Respiration monitor	500
		PCO_2 amplifier	500
		Blood gas tester	500
		Chest desks (2)	300
		Total	3,300

MOUNT EDGECUMBE SERVICE UNIT OPERATING PLAN—COST-OUT OF ADDITIONAL RESOURCE REQUIREMENTS FOR UNMET NEEDS, FISCAL YEAR 1977—Continued

Activity	Sub-activity number	Priority and program	Cost-out
Patient care, direct—Continued		Replacement equipment:	
		60 mattresses	$5, 580
		70 beside cabinets, with casters	8, 138
		Overbed tables	7, 578
		15 tables, 30 inches by 30 inches	569
		55 side arm chairs	4, 909
		10 steno chairs	815
		8 swivel arm chairs	716
		20 lounge chairs	2, 560
		4 desks, 55 inches by 30 inches	1, 070
		2 desks, 45 inches by 30 inches	466
		6 electric typewriters	4, 158
		4 bookcases	400
		1 treatment room cabinet	500
		10 wall clocks	300
		6 examining stools	320
		2 work tables	731
		Dressing cart	1, 000
		4 color television sets, 19-inch	1, 560
		6 Dallas model bassinets	2, 736
		5 Waterloo emergency carts and accessories	1, 961
		2 infant scales	132
		1 emergency room table	643
		40 bedside chairs	2, 320
		1 CSR work table	1, 000
		10 electric beds, complete	8, 130
		2 Hoyer lifts	450
		10 Baumanometers, Kompak model	570
		Total	59, 312
Do	12	Maintenance and repair projects:	
		Remodel dental dark room	1, 500
		Repair exteriors of building PHS 1, 2, 4, 5	2, 000
		Provide exhaust hood	3, 500
		Patch and repair main hospital roof	8, 500
		Remodel Juneau clinic office	5, 000
		Rekey to Grand Master	10, 000
		Replace door jambs, patient care areas	25, 000
		Supplies and preventive maintenance	59, 000
		Functional space requirement study (surgery suite, rehab services, medical laboratory, ventilation and heating plant).	122, 000
		Feasibility study—general heating plant	15, 000
		Remodel dietary	170, 000
		Renovate utility rooms—patient care areas; extend OPD; modify CSR ventilation.	185, 000
		Relocate clean linen storage area	45, 000
		Renovate interior of 30 quarters	332, 000
		Design for renovatiob of building 212	
		Design for renovation of building 212	60, 000
		Renovate and remodel surgery area	326, 000
		Renovate medical laboratory	115, 000
		Remodel building 212 to efficiency apartments	864, 000
		Provide steel cabinets—CSR storage	7, 000
		Renovate elevators	73, 000
		Provide steam supply plant and replace steam and condensate lines.	1, 000, 000
		Repair exterior buildings 228 and 229	91, 000
		Remodel and renovate dental clinic	45, 000
		Renovate roof, main structure 228	25, 000
		Total	3, 589, 500
		Total, equipment and facilities upgrading	3, 790, 784
Field health, field medical		20. Clinical reviews of health centers: Emphasis plan. No additional cost.	
Field health, dental	52	21. Clinical reviews of dental health centers: Emphasis plan. No additional cost.	
Patient care, direct	11	22. Conduct medical audits: Emphasis plan. No additional cost.	
Do	11	23. Reduce personnel turnover in nursing staff: Emphasis plan. No additional cost.	
Field health, field medical	55	24. Management reviews of health centers: Emphasis plan. No additional cost.	
Patient care, direct	11	25. Decentralize the planning function and maximize consumer involvement in the health planning process: Emphasis plan. No additional cost.	
		Total of additional resource requirements for unmet needs—fiscal year 1977.	5, 427, 080

CENTRAL COUNCIL—TLINGIT AND HAIDA INDIANS OF ALASKA

CONSTITUTION OF THE CENTRAL COUNCIL OF THE TLINGIT AND HAIDA INDIANS OF ALASKA

(Adopted April 17, 1973—Amended April 14, 1976)

ARTICLE I—FUNCTIONS

The functions of the Central Council of the Tlingit and Haida Indans of Alaska shall be to serve as the general governing body of the Tlingit and Haida Indians of Alaska, to promote their welfare, and to exercise the powers granted by the Act of June 19, 1935 (49 Stat. 388), as amended by the Act of August 19, 1965 (79 Stat. 543), and such other powers as it may lawfully exercise or be granted.

ARTICLE II—COMPOSITION

The Central Council shall be composed of delegates from designated local communities of the Tlingit and Haida Indians of Alaska who shall be chosen in accordance with Rules of Election adopted and approved as provided in section 7 of the Act of June 19, 1935, as amended.

ARTICLE III—ELECTIONS

Section 1.—General elections for selection of delegates to the Central Council shall be held every even numbered year on the first Tuesday in March, unless for compelling reasons the Central Council by resolution shall designate a different day for a particular general election.

Section 2.—Unless a Community entitled to elect delegates to the Central Council shall prescribe a different method approved by the Central Council.

(a) The Central Council shall appoint the members of the Local Election Committee and the local Registrar for each Community from the names appearing on the current list of eligible voters of the Community; and

(*b*) A vacancy occurring during a term in the position of delegate to the Central Council shall be filled by holding a special election in that Community where a vacancy occurs. The election shall be conducted in accordance with Rules of Election adopted and approved as provided in Section 7 of the Act of June 19, 1935, as amended, except that, prior to such election, the voting roll of the Community need not be opened to receive applications for registration.

ARTICLE IV—MEETINGS

Section 1.—The Central Council shall meet annually at a time and place set by the Central Council, provided, that if the Central Council does not fix a time and place for such meeting then it shall be held at the call of the President; be it further provided that the Central Council, unless for some compelling reason, meet annually on the first Thursday in April at a place designated by the Central Council, or the President, if not so designated, at Juneau.

Section 2.—Special meetings may be called by the President, or by one-fourth of the delegates provided that the call is sanctioned by the majority of delegates from their local communities. Be it further provided, that the call is in fact a bonafied action complying with the request of the chapter, or chapters, petitioning for the special convention. Resolution of the problematic area, presented by the call, will be the initial order of business with the conduct of other business, as time permits, at the conclusion of the special order of business.

Section 3.—At all meetings of the Central Council a quorum shall consist of a majority of the delegates, no business shall be transacted unless a quorum is present. All meetings shall be conducted in conformance with the Constitution and By-Laws of the Tlingit and Haida Indians of Alaska and Robert's Rules of Order.

ARTICLE V—POWERS OF THE CENTRAL COUNCIL

Section 1.—Subject to applicable laws and regulations of the United States, the Central Council shall have full powers to govern, conduct and manage the affairs and property of the Tlingit and Haida Indians of Alaska, including, without limitation, the following:

(*a*) To acquire and dispose of property, real and personal, by any and all means, for such consideration and upon such terms as it shall decide;

(*b*) To negotiate and enter into contracts with persons and entities of every kind and description, public and private;

(*c*) To borrow and raise money by all lawful means, and to pledge the credit of the Tlingit and Haida Indians of Alaska;

(*d*) To employ lawyers and other persons to render professional, technical, and other services of every kind and description;

(*e*) To authorize the advance, expenditure, use, investment and reinvestment of funds on deposit in the Treasury of the United States to the credit of the Tlingit and Haida Indians of Alaska in such manner and for such purposes as may be authorized by Congress;

(*f*) To consult with and advise any and all persons, officers, and entities, public and private, concerning subjects and matters affecting the interests of the Tlingit and Haida Indians of Alaska;

(*g*) to designate communities why may elect delegates to the Central Council, to prescribe the qualifications for delegates, as defined in the Rules of Election, and to determine its membership.

Section 2.—The Central Council shall possess such powers as are incident or necessary to the execution of the powers set forth above, and such further powers as it may from time to time be granted.

Section 3.—The Central Council shall promulgate By-Laws for the purpose of governing, regulating and guiding the conduct of business.

Section 4.—The Central Council may charter or otherwise authorize and provide for the organization of subordinate groups or entities to perform governmental or proprietary functions of the Tlingit and Haida Indians of Alaska, and to delegate to such subordinate groups or entities such powers as shall enable the charter group or entities to function guided by the same limitations as the Central Council.

ARTICLE VI—OFFICERS AND EXECUTIVE COMMITTEE

Section 1.—At its first regular meeting after each general election of delegates, the Central Council shall elect from its members the following officers: President, First Vice President, Second Vice President, Third Vice President, Fourth Vice President, Fifth Vice President, and Sixth Vice President, which officers shall serve until their successors are elected and qualified.

Section 2.—Upon the death, resignation or removal of an officer, the Central Council shall elect one of its members to serve the remainder of the term.

Section 3.—An executive officer who is charged in writing subscribed by not less than one-fourth of the delegates to the Central Council with neglect of duty or gross misconduct may be removed from office by vote of a majority of the delegates; provided, that before a vote on his removal may be taken, the executive officer concerned must have been supplied with the written statement of the charges against him at least ten days before the day of the meeting of the Central Council at which the vote is taken and given a fair opportunity to be heard in answer to such charges. Other officers shall serve at the pleasure of the Central Council, and actions of the Central Council concerning the removal of officers shall be final.

Section 4.—Officers of and delegates to the Central Council shall receive such compensation and allowances, if any, as shall be prescribed by the Central Council, subject to the availability of funds.

ARTICLE VII—FUNCTIONS OF OFFICERS

Section 1.—The President of the Central Council shall be its chief executive officer and the chief executive officer of the general government of the Tlingit and Haida Indians of Alaska. He shall preside over all meetings of the Central Council and, subject to its direction, he shall conduct and manage the business of the general government, execute documents and otherwise act for and on behalf of the Central Council and the Tlingit and Haida Indians of Alaska, shall be an ex-officio member of all committees and commissions, and exercise such other powers as may be delegated to him. He may delegate authority to others to perform functions and exercise powers of his office, and appoint committees to assist the Central Council or the President in the performance of their functions. As a member of the Central Council, he is entitled to vote.

Section 2.—The Vice Presidents of the Central Council shall assist the President when called upon to do so. In the order of their designation they shall succeed to the office of President upon the death, resignation or removal of the incumbent and serve in that office for the remainder of that term. In the absence of the President from a meeting of the Central Council the Vice Presidents shall preside in order of their designation.

Section 3.—The President and the six Vice Presidents of the Central Council shall elect one of the Vice Presidents to act in the capacity of Secretary to the Central Council. It shall be the responsibility of the Secretary to see that an accurate record be kept of all action taken and of business conducted by the Central Council or its officers. He shall promptly transmit copies of all minutes of meetings and resolutions of the Central Council and its officers, to all local Tlingit and Haida Community Councils, and to any Tlingit or Haida upon request. Any other records of the Central Council shall be available for inspection at the main office of the Council during business hours. The Secretary shall also attest the signature of the President or other authorized officer on legal documents executed for or on behalf of the Central Council as the general government of the Tlingit and Haida Indians of Alaska.

Section 4.—The six Vice Presidents of the Central Council shall elect one of their members to act in the capacity of the Treasurer to the Central Council, who shall act in that capacity only to conduct ordinary Central Council business.

ARTICLE VIII—FUNCTIONS OF THE EXECUTIVE COMMITTEE

When the Central Council is not in session the Executive Committee whether assembled or not shall possess all of the powers of the Central Council and shall be able to do all things and take all actions which the Central Council could without limitation, except that the Executive Committee shall not have the power to take any action which would constitute a repudiation or negation of action taken by the Central Council at its last meeting. The Executive Committee shall act by a majority of its members.

ADOPTION AND AMENDMENT

Section 1.—This constitution shall be in force and effect from the time of its adoption by vote of a majority of the delegates elected to the Central Council.

Section 2.—Amendments to the constitution shall be submitted to delegates thirty days prior to the convention. A majority vote will be required to amend. If there is no prior notice, a two-thirds vote of delegates will be required.

COMMUNITY COUNCIL PRESIDENTS

Harris Atkinson, Jr., President, Metlakatla T-H Community Council, Metlakatla, Alaska.

Pelican T-H Community Council, Pelican, Alaska.

Petersburg T-H Community Council, Petersburg, Alaska.

Irene B. Johson, President, Saxman T-H Community Council, P.O. Box 35, Ketchikan, Alkasa.

James Price, President, Washington Chapter, T-H Community Council, 111 North Second, Kent, Wash.

Isabella Brady, President, Sitka T-H Community Council, P.O. Box 4200, Mt. Edgecumbe, Alaska.

Roy Martin, President, Wrangell, T-H Community Council, P.O. Box 406, Wrangell, Alaska.

Evelyn Anderson, President, Yakutat T-H Community Council, P.O. Box 122, Yakutat, Alaska.

Martha J. Benzel, President, T-H Community Council, P.O. Box 122, Citation Road, Eagle River, Alaska.

Charlie Jim, Sr., President, T-H Community Council, P.O. Box 67 (threw Secretary), Angoon, Alaska.

Chris E. McNeil, Jr., President, T-H Community Council, 95-C Escondido Village, Stanford, Calif.

(Summer only). Chris E. McNeil, Jr., President, 723 West 10th Street, Juneau, Alaska.

Florence Mieike, President, T-H Community Council, P.O. Box 89, Craig, Alaska.

Walter Clayton, President, T-H Community Council, P.O. Box 364, Haines, Alaska.

Frank See, President, T-H Community Council, P.O. Box 136, Hoonah, Alaska.

Brian Burgess, President, T-H Community Council, General Delivery, Hydaburg, Alaska.

Al McKinley, President, T-H Community Council, 816 Dixson Street, Juneau, Alaska.

Tlingit & Haida Community Council, Kake, Alaska.

Louis Thompson, President, T-H Community Council, General Delivery, Kasaan, Alaska.

Charles Nelson, President, T-H Community Council, P.O. Box 945, Ketchikan, Alaska.

Klawock Tlingit and Haida Community Council, Klawock, Alaska.

Joe Hotch, President, Klukwan T-H Community Council, P.O. Box 525, Haines, Alaska.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington, D.C., June 20, 1969.

Memorandum.
To: Assistant Secretary, Public Land Management.
From: Solicitor.
Subject: Scope and applicability of the "Buy Indian" Act.

The attached letter, prepared by the Bureau of Indian Affairs to supplement the Secretary's response on February 27 to an inquiry from Senator Ted Stevens regarding the applicability of the so-called "Buy Indian" Act (Act of June 25, 1910, § 23; 36 Stat. 861; 25 U.S.C. 47) to Alaska Native Developers, Inc., was submitted to us for legal review. For reasons discussed herein, we are unable to approve the letter as drafted.

Although the "Buy Indian" Act, or an analogous provision, has been on the books since 1886, and has been cited over the years as authority for an increasingly large number of varied Departmental action, to the best of our knowledge, this office has never been called upon to render an opinion on its scope and applicability. In light of the fact that we believe the act poses several rather complex legal and policy questions, some of which are immediately involved in the proposed letter to Senator Stevens, and others of which will be involved in several programs we understand the Bureau of Indian Affairs expects to institute in the near future, we shall take this opportunity to outline briefly what we view as the dimensions of the problem and its legal implications. Before doing so, however, a review of the legislative history of the act is necessary, since it appears that much of the current difficulty is the result of misunderstanding of its background and purpose.

I. LEGISLATIVE HISTORY OF THE ACT

The statutory provision commonly termed the "Buy Indian" Act is presently codified in Title 25 of the United States Code as Section 47. It states:

> So far as may be practicable Indian labor shall be employed, and purchases of the products of Indian industry may be made in open market in the discretion of the Secretary of the Interior.

Our third major concern centers about the individuals or entities from whom goods and services are procured pursuant to the act. This matter is of particular importance since the Department has been receiving an increasing number of inquiries on this subject, one of the most recent of which is that of Senator Stevens, to which the attached proposed letter is a supplemental response.

The statute itself alludes to "Indian labor" and "the products of Indian industry", phrases which seem to be concerned with the nature of what is being procured rather than the identity of who is furnishing it. However, this language, particularly the reference to "Indian industry", is being administratively construed to limit the sources from which "Buy Indian" purchases may be made.

In his August 12, 1968, position paper on the act, the Commissioner set out definitions of the terms "Indian" and "Indian industry" to be used by BIA personnel concerned with the "Buy Indian" program. These definitions, which, as far as we are aware, never received legal review, are still being utilized by the Bureau as guidelines in administering the act:

(1) Indian: A person of Indian descent who could be eligible for Bureau services.

(2) **Indian Industry:**

a. Indian tribes.

b. An individual Indian who is engaged in the manufacture or sale of the product or the furnishing of the services desired.

c. Firms controlled by Indians, of which at least 51% of the ownership is by Indians, irrespective of the location or of the labor force employed, which are engaged in the manufacture or sale of the product or furnishing of the services desired.

d. Firms leasing a tribal-owned facility, such as a coal mine, on an Indian reservation and specifically required to employ Indian labor (see 37 Comp. Gen. 368). Contracts with such firms shall require that preference in employment shall be given to local residents.

e. Individual Indians and firms described above who, at the time of the Government's requirement, are not engaged in the manufacture or sale of the product or furnishing of the services desired, but are qualified to commence and properly perform such activity upon award of a contract.

We note that these definitions reflect the view that "Buy Indian" purchases must be made from *an* Indian industry, using the term "industry" to refer to an actual business entity or organization. The act itself does not speak of "*an* Indian industry", however, but refers simply to "products of Indian industry".

U.S. Department of the Interior,
Office of the Secretary,
Washington, D.C., July 20, 1971.

Memorandum.
To: Area Director, Juneau Area Office.
From: Secretary of the Interior.
Subject: Contracting under the Buy Indian Act.

Enclosed are copies of letters from the Alaska Native Brotherhood and our reply concerning Buy Indian Act Contracting and the agreement with the Central Council of the Tlingit and Haida.

Competitive negotiation should be conducted on Buy Indian Act contracts when more than one source is available. We have been informed that the Commissioner's Office has informed you of the Alaska Native Brotherhood's interest in competing for such contracts and that competitive negotiation should be undertaken. I agree with that procedure provided those in competition meet the definition of Indian as provided in the Bureau manual.

In the meantime, we will look into the question raised about the Tlingit and Haida agreement.

Harrison Loesch,
Assistant Secretary of the Interior.

Enclosures.

U.S. Department of the Interior,
Bureau of Indian Affairs,
Washington, D.C., March 3, 1976.

Memorandum.
To: Holders of 20 BIAM.
From: Commissioner of Indian Affairs.
Subject: Buy Indian Act Contracting.

Regulations that implement the Indian Self-Determination and Education Assistance Act (Public Law 93-638, 88 Stat. 2203) and set forth the requirements that must be followed in contracting with Indian tribes and tribal organizations for the operation of Bureau programs that serve them were published beginning on page 51282 of the November 4, 1975, Federal Register (40 FR 51282). Although contracts for such programs may only be entered into in accordance with the "Self-Determination" regulations, these regulations do not prevent the Bureau from using the "Buy Indian Act" (25 USC 47) for other purposes. Therefore, the purpose of this Bulletin is to briefly state the Bureau's policy on the use of the "Buy Indian Act", pending publication of regulations dealing therewith in the Bureau's Procurement Regulations (41 CFR 14H).

It is the Bureau's policy that all purchases or contracts be made or entered into with qualified Indian contractors to the maximum practicable extent. Before taking any procurement action, contracting officers shall first determine if there are any qualified Indian contractors within the normal competitive area that can fill the procurement requirement. Non-Indian contractors may be contacted only after it has been determined that there are no qualified Indian contractors within the normal competitive area that can fill or are interested in filling the procurement requirement.

For the purpose of this Bulletin, "Indian contractor" means a legal entity which is 100% Indian owned and controlled. "Indian" means a person who is a member of an Indian tribe or otherwise considered to be an Indian by the tribe with which affiliation is claimed. "Normal competitive area" means the geographic area within which competition is usually solicited in the filling of a procurement requirement.

As in the past, contracting officers shall:

(1) Determine prior to contracting that the contractor is eligible to receive a contract under the "Buy Indian Act".

(2) Obtain competition between Indian contractors when there is more than one that can fill the procurement requirement.

(3) Adhere to all applicable requirements in the Federal and Interior Procurement Regulations (41 CFR 1 as Supplemented by 41 CFR 14).

(4) Maintain a list of eligible Indian contractors within their respective areas and periodically furnish a copy thereof to all other Bureau contracting officers.

(5) When appropriate, based on the type of procurement, include in the contract the percentage of work the contractor must perform with its own employees.

(6) Make sure that the price of a contract awarded is fair and reasonable.

Any questions concerning this Bulletin should be addressed to the Contracting Staff in the Washington Office.

Regulations implementing the Buy Indian Act are being prepared and should be issued within the next few months.

Morris Thompson,
Commissioner of Indian Affairs.

U.S. Department of Housing and Urban Development,
June 11, 1976.

TRANSMITTAL

1. This Transmittal Transmits: Additional pages to HUD Handbook 7440.1, Interim Indian Housing Handbook.

2. Explanation of Material Transmitted: A new paragraph 1-4 is added to the Handbook. This paragraph sets forth permissible methods for providing preference in the award of construction contracts to an Indian Organization or Indian-Owned Economic Enterprise in accordance with Section 7(b) of the Indian Self-Determination and Education Assistance Act.

3. Filing Instructions: Insert Pages 1-15 through 1-18, dated June 1976.

John B. Rhinelander,
Acting Secretary.

1.4 INDIAN PREFERENCE IN CONSTRUCTION CONTRACTING

a. Purpose

This paragraph sets forth permissible methods for providing preference in the award of construction contracts under the Turnkey or Conventional Bid construction methods to an Indian Organization or Indian-owned Economic Enterprise in accordance with Section 7(b) of the Indian Self-Determination and Education Assistance Act. These methods for providing preference are authorized under section 805.204(c) of the Indian housing regulation which permits the inclusion of special HUD-approved Indian preference requirements in the invitation for bids or requests for proposals.

b. Waivers of certain regulatory bidding requirements

Pursuant to the provisions of 24 CFR 899.101 the provisions of section 805.203 (c) requiring award under the Conventional method to the lowest responsible bidder, and the provisions of section 805.204(c) stating that the additional Indian preference requirements therein authorized shall not result in a higher cost, are hereby waived to the extent necessary to implement the preference methods authorized by this paragraph. The Department has determined that there is good cause for such waiver based on the following pertinent facts and grounds:

Many comments to the Department have requested the institution of procedures to facilitate award of construction contracts under the Indian Housing Program to Indian Enterprises. It is intended to respond to these concerns by appropriate amendment to the Indian Housing Regulations. However, the Department believes that it is desirable to accumulate experience on the best method for implementing Indian preference in the award of contracts before implementing permanent changes in the regulation.

c. Definitions

(1) "Indian Organization or Indian-owned Economic Enterprise" ("Indian Enterprise") means either:

(*i*) an "Economic enterprise" as defined in Section 3(e) of the Indian Financing Act of 1974 (P.L. 93-262); that is "any Indian-owned . . . commercial, industrial or business activity established or organized for the purpose of profit: *Provided*, that such Indian ownership shall constitute not less than 51 percentum of the enterprise" or

(*ii*) a "Tribal organization" as defined in section 4(c) of the Indian Self-Determination and Education Assistance Act (P.L. 93-638) that is: "the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: *Provided*, That in any case where a contract is let or grant made to an organization to perform services benefitting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contract or grant. . . ."

(2) "Tribal Bidder" means an Indian Enterprise owned 51% or more by members of the tribe which issues the advertisement. "Non-Tribal Bidder" means an Indian Enterprise other than a Tribal Bidder.

d. Methods for providing Indian preference

In general, the standard requirements of the Turnkey or Conventional methods (as stated in chapters 5 and 6 of this Interim Handbook) apply to advertisement and award of construction contracts. However, in addition to the standard procedures, the field office may approve use under Turnkey or Conventional Bid of any of the following four preference methods if the IHA so desires and if the use of such preference method is approved in advance by the governing body of the tribe:

(1) The advertisement will invite bids or proposals from Indian and non-Indian Enterprises, but the contract shall be awarded to the Indian Enterprise (Tribal or Non-Tribal Bidder) approved by HUD (i) whose bid, in the case of the Conventional method, is the lowest responsible Indian Enterprise bid and is no higher than 110% of the overall lowest responsible bid, or (ii) whose proposal, in the case of the Turnkey method, is the lowest acceptable Indian Enterprise proposal and is no higher than 110% of the overall lowest acceptable proposal.

(2) The advertisement will invite bids or proposals from Indian and non-Indian Enterprises, but the contract shall be awarded (i) to the lowest responsible bid or proposal from a Tribal Bidder approved by HUD, or (ii) if there is no such bid or proposal from a Tribal Bidder, to the lowest responsible bid or proposal from a Non-Tribal Indian Bidder approved by HUD, provided that in either case the bid or proposal shall not be higher than 110% of the overall lowest responsible bid or acceptable proposal.

(3) The advertisement will invite bids or proposals only from Indian Enterprises (Tribal and Non-Tribal Bidders) and the contract shall be awarded to the lowest responsible bid or the lowest acceptable Turnkey proposal from an Indian Enterprise approved by HUD.

(4) The advertisement will invite bids or proposals only from Indian Enterprises (Tribal and Non-Tribal Bidders), but the contract shall be awarded (i) to the lowest responsible bid or the lowest acceptable proposal from a Tribal Bidder approved by HUD that is no higher than 110% of the lowest responsible bid or the lowest acceptable proposal, or (ii) if there is no such bid or proposal from a

Tribal Bidder, to the lowest responsible bid or lowest acceptable proposal from a Non-Tribal Bidder approved by HUD.

e. Cost limitations

A contract shall not be awarded to an Indian Enterprise on a preference basis unless (1) the Prototype Cost included in the total contract price is within the Project Prototype Cost Limit, (2) the total contract price is reasonably comparable to, but not more than 110% of, the HUD estimate of the reasonable cost for performance of the contract work by a contractor who would not be eligible for preference, and (3) the eligibility for preference is approved by HUD. If an award cannot be made because of the cost restrictions stated in the preceding sentence, the IHA with HUD approval may negotiate a lower price with a contractor whose bid could otherwise have been accepted or may readvertise for bids or proposals on the basis of an amended invitation designed to reduce costs and with or without restriction or perference pursuant to paragraph d.

f. Qualification of prospective contractors

(1) A prospective contractor seeking to qualify as an Indian Enterprise shall state whether it is seeking to qualify as a Tribal Bidder or Non-Tribal Bidder and shall submit the following with or prior to submission of his bid or proposal:

(*i*) Evidence showing fully the extent of Indian ownership and interest in the Enterprise.

(*ii*) Evidence of structure and financing of the Enterprise, major subcontracts and purchase agreements and management or profit-sharing arrangements, including evidence showing the effect of all these on the extent of Indian ownership and interest.

(*iii*) A demonstration that the Enterprise has the experience and capability for timely completion of the Contract work.

(2) The invitation for bids or request for proposals shall provide that the IHA shall determine whether any prospective contractor qualifies as an Indian Enterprise, and as a Tribal Bidder where applicable, and that such determination shall be subject to approval by HUD.

g. Transfer or conveyance by Indian enterprise

The construction contract shall state that there shall be no transfer or conveyance affecting the Indian interest in or ownership of the enterprise, upon occurrance of a default or otherwise, without the written approval of the IHA and HUD.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
Washington, D.C., March 3, 1976.

Memorandum.

To: Holders of 20 BIAM.
From: Commissioner of Indian Affairs.
Subject: Revocation of 20 BIAM.

This release revokes Part 20 of the Bureau of Indian Affairs Manual (20 BIAM) on Indian involvement programs. The revocation will be effective on December 4, 1975.

Many of the procedures in 20 BIAM are made obsolete by the issuance of regulations in 25 CFR Parts 271 through 277 and in 41 CFR Part 14H–70 to implement the Indian Self-Determination and Education Assistance Act (Public Law 93-638; 88 Stat. 2203). Contracting with tribal organizations for the operation of all or parts of Bureau programs will be done in accordance with 25 CFR Part 271 and 41 CFR Part 14H–70, not under other existing contracting authorities. Therefore, the procedures and guidelines in 20 BIAM which deal with contracting under other authorities are no longer applicable.

Internal operating procedures and guidelines are being developed to assist Bureau employees in complying with the new regulations. These procedures and guidelines will be issued as part of the Bureau manual system.

MORRIS THOMPSON,
Commissioner of Indian Affairs.

U.S. Department of the Interior,
Bureau of Indian Affairs,
Washington, D.C., March 3, 1976.

Memorandum.
To: Holders of 20 BIAM.
From: Commissioner of Indian Affairs.
Subject: Buy Indian Act Contracting.

Regulations that implement the Indian Self-Determination and Education Assistance Act (Public Law 93-638, 88 Stat. 2203) and set forth the requirements that must be followed in contracting with Indian tribes and tribal organizations for the operation of Bureau programs that serve them were published beginning on page 51282 of the November 4, 1975, Federal Register (40 FR 51282). Although contracts for such programs may only be entered into in accordance with the "Self-Determination" regulations, these regulations do not prevent the Bureau from using the "Buy Indian Act" (25 USC 47) for other purposes. Therefore, the purpose of this Bulletin is to briefly state the Bureau's policy on the use of the "Buy Indian Act", pending publication of regulations dealing therewith in the Bureau's Procurement Regulations (41 CFR 14H).

It is the Bureau's policy that all purchases or contracts be made or entered into with qualified Indian contractors to the maximum practicable extent. Before taking any procurement action, contracting officers shall first determine if there are any qualified Indian contractors within the normal competitive area that can fill the procurement requirement. Non-Indian contractors may be contacted only after it has been determined that there are no qualified Indian contractors within the normal competitive area that can fill or are interested in filling procurement requirement.

For the purpose of this Bulletin, "Indian contractor" means a legal entity which is 100% Indian owned and controlled. "Indian" means a person who is a member of an Indian tribe or otherwise considered to be an Indian by the tribe with which affiliation is claimed. "Normal competitive area" means the geographic area within which competition is usually solicited in the filling of a procurement requirement.

As in the past, contracting officers shall:

1. Determine to contracting that the contractor is eligible to receive a contract under the "Buy Indian Act."
2. Obtain competition between Indian contractors when there is more than one that can fill the procurement requirement.
3. Adhere to all applicable requirements in the Federal and Interior Procurement Regulations (41 CFR 1 as Supplemented by 41 CFR 14).
4. Maintain a list of eligible Indian contractors within their respective areas and periodically furnish a copy thereof to all other Bureau contracting officers.
5. When appropriate, based on the type of procurement, include in the contract the percentage of work the contractor must perform with its own employees.
6. Make sure that the price of a contract awarded is fair and reasonable.

Any questions concerning this Bulletin should be addressed to the Contracting Staff in the Washington Office.

Regulations implementing the Buy Indian Act are being prepared and should be issued within the next few months.

Morris Thompson,
Commissioner of Indian Affairs.

Proposed Agenda: Recommendations and Rationale

I. Problems with the implementation of the Alaska Native Claims Settlement Act (ANCSA).

There are presently three separate, but interrelated problems with the implementation of the Act.

A. *Easements.*—There is a general concern among all regional corporations that BLM is violating the intent of the Act by promulgating regulations which call for continuous easements, where the Act suggests periodic, and linear easements along the coasts and waterways. Similarly, the proposed "floating transportation corridor" easements are also not within the intent of the Act.

There are several alternative methods of dealing with this problem:

1. One could force the BLM to comply with the intent of the Act through litigation.

2. One could make the intent clearer and more explicit through legislation.

3. One could legislatively, propose an upper limit on total percent of land available for easements. ANF analysis demonstrates that the easements could account for between 5 and 11.5 million acres of Alaska Native land. (or 12.5 and 29% of the land).

4. One might explore the possibility of an inverse condemnation action where the easements deprive the owner of such use of the land that is in actuality at taking. This might be possible especially with respect to the "floating" easements.

II. Conveyances: Only ½ of 1% of the total Alaska Native lands selected have actually been conveyed. Until recently the rate of conveyances has been slow. Now they have been stopped by BLM because the issue of conveyances is in litigation.

A. Section 14 (a) and (e) state that the conveyances shall occur "immediately" after the selections. It is doubtful that even BLM would contend that lands have been immediately conveyed.

1. One action the regional and village corporations might take is to litigate to force the BLM to comply with the Act and immediately convey the lands.

2. Another alternative is that it should be possible to demonstrate that the lack of timely conveyances has caused and will continue to cause a real economic loss and hardship on the Alaska Native corporations. The Alaska Natives had to comply with strict standards and timetables in the selection of lands or face the sanction of loss of their rights to selection. By the same token, Alaska Natives have a right to "immediate" conveyances. The losses incurred by late and lackadaisical federal administration should be compensable. If one computed only a $1.00 per acre loss per year for non-conveyance, it is easy to see that here are real and extraordinary losses being suffered.

III. Taxation: The 20-year exemption from all federal, state, and local taxation of the lands was predicated upon the assumption that the lands would be immediately conveyed and the corporations would therefore have an adequate lead time in order to develop themselves to meet the demands of taxation. However, lands are not being conveyed and the advantage of this tax exemption is being lost because of the federal government's inaction.

A. One remedy might be to extend the 20-year exemption where it starts at the date of conveyance and end 20 years later.

Another key problem is that both regional and village corporations are depleting their assets just through their attempts to procure valid title to the land. This was not contemplated in the Act. Section 2(b) states that the Act shall be accomplished "rapidly" and "without litigation." The majority of these costs do *not* fall into the category of ordinary "land management" but are extraordinary expenses caused by the federal government itself.

IV. Prospective problems with the alienation of stock 20 years after the date of the Act. Corporations created by the Act create a structure which will help insure that the lands, the major asset owned by Alaska Natives, will be retained in corporation ownership. However, there is no guarantee that the Alaska Natives will be able to retain ownership in the corporations. Therefore there is no guarantee that Alaska Natives will continue to retain ownership of their lands.

The problem is that after 20 years Alaska Natives will, without a doubt, sell their shares voluntarily or lose them through involuntary transactions. The sleeper issue is "termination." There is no single historical event which fits the Alaska Native situation, but analogous cases are Menomini, Oklahoma, and the Allotment Act. There are two 4-key questions which one must answer in this regard.

A. Do Alaska Natives wish to ensure continued ownership in their lands and corporations?

B. Do Alaska Natives wish to retain an equitably distributed shares of stocks among Alaska Natives?

It is possible to attain the former without the latter.

(1) *Solution 1.*—Would be to give the corporation a first option on the purchase of stock. This would be a partial solution to Question A, but not B. Its shortcoming, even for Question A is that it presumes that the regional and village corpo-

rations will always have sufficient resources to purchase the stocks. Secondly, it would not completely halt non-Native ownership because, the stock could still be transferred through devisement. The advantage of this position is that it could be adopted through internal corporation policy.

(2) *Solution 2.*—This plan would make the stock permanently inalienable. This would require Congressional action. The disadvantage is that it would still allow substantial non-Native ownership through the mechanism of devisement. Thus it still would not answer the Question A standard. It also would provide no solution to Question B at all.

The principal disadvantage is that for some people there would be a loss in value of ownership because of the inalienability. Some people would prefer to sell or at least use the stock as an asset which may be collateralized. There probably would be no 5th Amendment problems among any stockholders so long as the present owners retained ownership of the direct benefits, but that would be an open legal question.

(3) *Solution 3.*—This would create, legislatively, the corporate functional equivalent of a tribe through the creation of membership corporations. In this structure, each Alaska Native would retain the direct benefits of membership to his respective corporations only during his lifetime. This would necessarily mean that the rolls would be permanently opened to children born after the date of the Act and would also mean that stockholders could not alienate his shares. The advantage is that it would insure permanent Alaska Native ownership of all corporate stock (although not necessarily its assets). The disadvantages are not trifling. First, there would be a cost to a permanently opened enrollment. Secondly, as in solution 2, there would be some loss in value for some stockholders because of the inalienability. Thirdly, there would be a serious 5th Amendment question regarding whether or not non-Native owners would suffer a taking without just compensation, because they would neither be able to alienate their stock nor devise the stock, although they would be able to retain their interest in their corporate membership during their lifetime.

In sum, a selection of different alternatives would not only involve a question of effectiveness of solutions, but would also involve a question of trade-offs. Continuous Native ownersip of corporate assets would come at a cost for everyone.

V. A second range of problems would deal with the implementation of recent federal laws applicable to Alaska Natives.

A. *Indian Self-Determination Act.*—The key problem for Alaska is that the definition of an Indian tribe is at least ambiguous. For Alaska, the Act specifically recognizes Indian tribes, bands, Alaska Native villages, village corporations and regional corporations. ANF and AFN analysis indicates that the regional non-profit associations would be the most logical contracting entity, but they are not even listed as "Indian Tribes." However, they could be recognized as "Indian Organizations" but the Area Director has required that the Indian Organization obtain the affirmative consent of every "Indian tribe" within its jurisdiction before it could contract. This is costly, time consuming and unreasonable. There are several alternative solutions.

(1) *Solution 1.*—One could delete references to village and regional corporations and replace it with Section 7(a) non-profit corporations or their successors. This position was rejected at the May 1976 AFN Board meeting by the profit making corporations. The advantage to this solution is that it would clarify to the BIA that non-profit regional corporations are eligible Indian tribe. Whereas, regional and village profit making corporations do not intend to contract for social services. The only reason for retaining them in the definition is to insure continued federal recognition.

(2) *Solution 2.*—One could enact legislation which would add Section 7(a) non-profit regional associations to the definition of an "Indian tribe." This was the position adopted by the AFN Board in May 1976. The problem with this solution is that it would complicate an already difficult administrative and political situation. Merely adding another eligible entity would give the BIA more flexibility to manipulate the situation through the purse strings. They would have no direction regarding which entities are the most satisfactory contracting entities.

(3) *Solution 3.*—This would add to a legislative priority to solution 2. That is the BIA would be directed to recognize the eligible entities in a specific order. One possible priority would be to place the regional non-profit associations at the top of the list with IRA's and traditional Indian villages second and village

and regional profit corporations third. This would have the advantage of allowing the regional non-profit associations to contract but nevertheless still give federal recognition to village and regional profit corporations. This disadvantage to this solution is that it is unwieldly. Secondly, it may not be an affective way of dealing with the "termination" issue. It is only an oblique defense against "termination." The real source of the "termination" problem lies in Section 2(b) of ANCSA. A modification or deletion of that section would provide the most direct and permanent solution to that problem.

B. *Indian Financing Act.*—There is an analogous problem with the implementation of the IFA. As the Act is being implemented in Alaska, the state is divided into rural and urban eligibility areas. Urban Alaska Natives, not eligible for benefits of IFA. This is unique, because previously the entire state of Alaska was called a reservation for the purposes of implementing federal Indian legislation. There are several alternative solutions:

1. One could call the entire state a reservation for the purposes of the Act.

2. One could call each Section 7(a) geographical area a reservation for purposes of the Act.

Solution 1 and 2 would be functionally the same. Solution 2 is the AFN recommendation.

Solution 3.—One could amend the Act to implement the Act by function instead of geography. That is, one could declare that all Alaska Natives or Alaska Native stockholders are eligible.

The key problem is that state-side Indians might resist an amendment which, in principle, would open the door to funding Indians who reside in urban areas.

C. *Impending Indian Health Bill H.R. 2525.*—This bill aso defines urban and rural health programs where the bulk of funding would go to rural areas. There is some possibility that this would cause Alaska to be divided into urban and rural eligibility areas as in the IFA. Alaska Natives in Anchorage might not be eligible to use the Anchorage IHS facility.

D. The long term solution would be to enact legislation which would define "Indian tribe" and "reservation" for Alaska which would have retroactive and prospective legislative effect.

VI. Alaska Native subsistence is being threatened by the proposed state regulation of Alaska Native hunting under the Mammals Act. Where the Mammals Act allows an exception for Alaska Native subsistence hunting, the State would like the Secretary to waive it.

One solution would be to litigate the issue if the State actually is able to obtain an approval of their plan to regulate Alaska Native subsistence rights despite the existence of the exception.

VII. There are undoubtedly other issues which may be discussed at the hearings. But we would probably be more effective if we limited ourselves to the critical issues. I suggest that if there is any limitation, we should only insure that the ANCSA implementation problems and the Indian Self-Determination Act be discussed.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
Washington, D.C., July 12, 1976.

ED HALVERSON,
Financial Consultant, Tlingit & Haida Contractors Association, 130 Seward Street,
Room 416, Juneau, Alaska

DEAR ED: Thank you for your letter of June 1, 1976, regarding the "Buy Indian Act." In the case of the Angoon road project, I have been told that the regular competitive bid process is too far along to change and still be to the advantage of local natives.

Our policy is to contract under the "Buy Indian Act" whenever there are qualified Indian contractors available. Enclosed is a more complete statement of the policy (20 BIAM Bulletin 1). Our Juneau Area Office assures me that it is capable of assembling an invitation to bid for Indian contractors and will do so when appropriate. I suggest you peruse their priority list for future construction and discuss your qualifications with them.

Sincerely yours,

MORRIS THOMPSON,
Commissioner of Indian Affairs.

Enclosure.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
Washington, D.C., August 6, 1976.

To All Tribal Leaders:

As stated in the regulations implementing the Indian Self-Determination and Education Assistance Act (25 CFR 271.3(e), 272.4(e), 273.3(d), 274.5(d), and 277.4(d)), the Bureau will annually consult with Indian tribes and national and regional Indian organizations about the need for revision or amendment of the regulations and will consider their views in preparing the revision or amendment. This year the consultation will be handled by mail although it may be conducted differently in future years. Accordingly, we ask that you submit any comments you may have on needed revisions or amendments to the Division of Management Research and Evaluation (Code 850), Bureau of Indian Affairs, 1951 Constitution Avenue, N.W., Washington, D.C. 20245, on or before September 20.

Since the regulations only became effective on December 4, 1975, we realize that there has not been much time for you to gain experience in using the new regulations. The activity in the area of new contracts has been limited. The greatest activity has involved the renewal of existing contracts in accordance with 25 CFR 271.19 and 271.20. There has been little activity in the grants area. However, to meet the annual consultation requirement, we are asking for your comments at this time.

Section 14H-70.611(a) of 41 CFR contains an indemnity clause. Because of numerous tribal requests, a general waiver of this clause is in process. There is no need to request the removal of this clause in your comments since it will be deleted from future regulations.

All comments received on or before September 20 will be reviewed and analyzed regarding need and feasibility of revising the regulations. A proposed rulemaking document will be prepared to make the needed revisions. Copies will be sent to Indian tribes and national and regional Indian organizations, Area Directors, and Congress. An opportunity to comment on the proposed rulemaking document will be provided prior to Federal Register publication. The proposed rulemaking document will be revised as needed in response to the comments received and then will be published in the Federal Register. The target date for publication of the proposed regulations is February 1, 1977. Interested persons will be given another 30 days in which to comment on the proposed regulations. The proposed regulations will be revised as needed in response to the comments received. A final rulemaking document will then be prepared and published in the Federal Register. The revised regulations will become effective 30 days after the date the final rulemaking document is published in the Federal Register.

All Central and Area Office Directors and Superintendents will also receive a copy of this letter. Any suggestions they have will be considered in the proposed regulations. We are asking that the Superintendents contact you and assist you in developing any revision or amendments you may have.

Sincerely yours,

——— ———,
Acting Deputy Commissioner of Indian Affairs.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington, D.C., July 12, 1976.

Memorandum.
To: All regional solicitors; all field solicitors.
From: Solicitor.
Subject: 28 U.S.C. Sections 2415 and 2416.

Attached is a copy of the Commissioner of Indian Affairs' self-explantory memorandum of this date. Your cooperation in this matter will be much appreciated. If you have any questions, please communicate with Assistant Solicitor Lawrence Aschenbrenner in the Division of Indian Affairs.

HUGH GARNER,
Deputy Solicitor.

Attachment.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
Washington, D.C. June 29, 1976.

Memorandum.
To: All Area Directors and Agency Superintendents.
From: Commissioner of Indian Affairs.
Subject: Deadline for filing certain actions on behalf of Indians.

On July 18, 1977, the statute of limitations codified as 28 U.S.C. § 2415 and § 2416 will prevent the United States from litigating certain claims on behalf of Indians which arose before July 18, 1966. As that deadline approaches, it is paramount that maximum efforts be expended to identify and document those claims which will be barred.

Generally, any action seeking money damages which arose before July 18, 1966 will be barred after the 1977 deadline. This includes claims for damages resulting from a trespass on lands; claims for damages resulting from fire on lands; claims for damages founded upon any contract (i.e., leases, permits, etc.) and claims for conversion of property. There is no time limit for bringing an action to establish title to, or rights of possession of, real or personal property. But any claims for monetary relief for trespasses or takings incident to such wrongful possession must be filed before the deadline.

This statute of limitations applies to actions brought by the United States for or on behalf of a recognized tribe, band, or group of Indians; to actions brought on behalf of an individual Indian whose land is held in trust or restricted status; and to actions relating to allotted trust or restricted Indian lands. The act does not cover suits brought by tribes or individuals without the assistance of the United States.

The scope of the act is limited to damages. It therefore has no effect whatever on actions to enjoin interference with the violation of Indian treaty rights or other rights granted to Indians by federal statutes. Thus, actions to protect Indian hunting and fishing rights or to prevent the imposition of state jurisdiction over "Indian country" are unaffected. Water rights are considered to be real property and, therefore, an action to determine the amount of water reserved for a tribe under the *Winters* doctrine is not subject to the act. However, again, an action for damages for past violations or interference with hunting and fishing rights, water rights or other treaty rights will be barred.

The limitation applies to all actions which accrued prior to July 18, 1966. However, the right to bring an action may not be deemed to have accrued by that date if the material facts were not known and reasonably could not have been known by the responsible official. Thus, an action for damages for a taking of Indian water would probably not accrue until there is a judicial determination of the amount of water vested in the tribe. The running of the statute is also tolled if the defendant is outside the United States or exempt from legal process for any reason.

Each and every claim must be analyzed to determine whether this statute of limitation applies. Initial responsibility for identifying and investigation claims is vested in the field and area offices. Those efforts should be carried out in direct coordination with tribal governing bodies and their attorneys. Questions concerning the scope of the statute should be directed to the respective field and regional Solicitor's offices. If there is any conceivable doubt as to whether the statute of limitations is applicable to a particular claim, refer it to the Solicitor for resolution.

To facilitate our responsibilities in this effort you are directed to appoint a specific individual in your office to have responsibility for working directly with tribal governing bodies, BIA superintendents and tribal attorneys in this undertaking. Notice of that individual so designated should be directed to the field and regional Solicitor in your area as well as Lawrence Aschenbrenner, Assistant Solicitor in the Division of Indian Affairs in Washington.

The importance of this deadline cannot be overemphasized. The number, size and import of the claims which will be permanently barred is unknown at this time. Although the actual filing date is July 18, 1977, the last date on which the Solicitor will be able to forward a litigation request to the Department of Justice with any reasonable hope of meeting that deadline will be substantially earlier than July.

MORRIS THOMPSON,
Commissioner of Indian Affairs.

AUGUST 10, 1976.

FRANK DUCHENEAUX,
Counsel, Indian Affairs Subcommittee, Interior and Insular Affairs Committee,
House of Representatives, Washington, D.C.

DEAR MR. DUCHENEAUX: This is in reference to the problem we discussed over the phone, Thursday August 5th.

Tlingit and Haida Central Council's Southeast Agency questions the Bureau of Indian Affairs' Interpretation of the eligibility of Tlingit and Haida people to benefit under the programs created by the Indian Finance Act 1974 (P.L. 93-262).

Southeast Agency's major complaint lies with the Commissioner's definition of reservation and his interpretation of the status of area "near a reservation." Section 401 of the Finance Act requires that to be funded an economic enterprise must be on or near a reservation. In the Commissioner's January 19, 1976 memo concerning the reservation status of areas in Alaska, the Commissioner limits the definition of reservation to include only ". . . land held by incorporated groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act." Any other land, such as that held by Natives in an urban area, could at best be described as land "near a reservation." The Commissioner fails to define what is "near a reservation." Besides which, businesses which are "near a reservation" are considered as second priority and are not funded, as stated in the Juneau Area Director's memo of April 14, 1976 regarding eligible applicants for the Indian Business Development Program grants.

> 10. [an applicant] Must be located on or near a reservation.
>
> If near a reservation can only be considered as a second priority. (FY 76 there will be no funding for 2nd priority applicants—25 CFR 80.7).

Consequently, Natives living in or near an urban area discriminated against because they do not receive funding under the Indian Business Development Program.

As stated in the Juneau Area Director's memo of January 26, 1976:

> Alaska has until now [referring to the issuance of Morris Thompson's January 19th statement regarding reservation status in Alaska] been considered to have reservation status for all cities, towns, or villages wherever our Native people found suitable conditions in which to live.

Clarence Antioquia, the Juneau Area Director, further points out: "Just because an Alaskan Native lives in Juneau, Sitka, Kodiak, Anchorage, or Fairbanks . . . [does not] mean he has unlimited resources at his disposal or can borrow money in unlimited amounts for what he might wish or need." The BIA and other government programs have always included urban Natives in the definition of reservations because they viewed the needs of the urban Natives to be just as significant as those of the rural areas. Urban Tlingit and Haida people should not be excluded from the Indian Business Development Program on the basis that they do not live on a reservation.

In essence, the Commissioner has excluded the Tlingit and Haida living in municipal areas from all the programs created under the Act. In his January 19th memo, he states that

> . . . to carry out this purpose the Act requires in Section 401 pertaining to grants that the economic enterprise to be funded must be near reservations, *which is also the regulatory requirement for all programs under the Act.* An enterprise located in a non-reservation area must be near a reservation and have a direct economic benefit to a qualified reservation area. (emphasis mine)

In addition to the limitations of failing to define "near a reservation", and not funding 2nd priority areas, the Commissioner has further reduced the eligibility of urban Tlingit and Haida by stipulating that their businesses must have a "direct economic benefit" to the reservation area. In the 1975 Code of Federal Regulations 80.4, it is required that the enterprise must ". . . make an economic contribution to a nearby reservation by providing employment to tribal members residing thereon or by expanding a portion of its income for materials or services on the reservation." The Juneau BIA Credit and Finance office has interpreted the Commissioner's "direct economic benefit" to be more stringent than the CFR's "economic contribution."

In researching the legislative history of the Act, I did not get the impression that Congress intended rural Natives to benefit to the exclusion of Natives living in or near municipal areas. Senate bill 2237 to establish an Indian Business Development Program, from which Title IV of H.R. 6371 derives, defines reservation as pertains to Alaska Natives as ". . . land occupied by

Alaska Native communities." The Act does not define communities, perhaps, to insure a broad interpretation of the term. In the record of the October 12, 1973 Hearings of the House Subcommittee on Indian Affairs, there is a discussion between Congressman Lujan and Mr. Jackson regarding the eligibility of all Tlingit and Haida to receive loans under the Revolving Loan Fund Program (p. 166). Also, if Congress chose to treat the Natives living in municipal areas as second priority, it would not have been necessary to define eligible tribes as meaning "any tribe, band, group, pueblo, or community, including, Native villages and Native groups (*including corporations organized by Kenai, Juneau, Sitka, and Kodiak*) as defined in the Alaska Native Claims Settlement Act . . ." (emphasis mine). Aside from the fact that the four municipal areas were specifically included, it would appear that all Tlingit and Haida are eligible for consideration if only because they form a tribe recognized by the Federal Government. From the above evidence it does not appear that Congress intended to distinguish between rural and municipal Natives in Alaska.

Another complaint that Southeast Agency has concerns the BIA's interpretation of the following clause in Section 101, Title I—Indian Revolving Loan Fund:

> The fund shall be available for loans to Indians having a form of organization that is satisfactory to the Secretary and for loans to individual Indians who are not members of or eligible for membership in an organization which is making loans to its members; Provided that where the Secretary determines a rejection of a loan application from monies borrowed from the fund is unwarranted—he may in his discretion, make a direct loan to such individual from the fund. (emphasis mine).

The BIA has interpreted the word "loans" to refer to any loans and therefore has advised that no loans are available to members of the Tlingit and Haida Tribe because the T & H Central Council has a loan program of its own. (The Central Council is currently considering abolishing its loan program so that Tlingit and Haida people will be eligible for loans (both direct and guaranteed) under the Finance Act. T&H Central Councils' Business Loan Program resources are nearly depleted, and loans have always been limited to $6,000 per individual. The Council believes that our people would benefit more under the programs of the Indian Finance Act.) But the problem was discussed before the House Committee on Indian Affairs October 12 ,1973. I have enclosed a copy of the discussion between Congressman Lujan and Mr. Jackson. Congressman Lujan believed that the Central Council was eligible for a loan from the Revolving Loan Fund, and could then establish itself as a relending organization. Southeast Agency feels that the BIA has misinterpreted the above underlined clause, and believes rather that the word "loans" refers to "loans" borrowed from the Revolving Loan Fund.

In speaking with various credit officers in the Bureaus' Areas Credit & Finance Office, I got the impression that the Bureau in Alaska interprets the act as an equalizing agent giving the rural Natives opportunities which Natives in municipal areas already have access to. Although Natives in urban areas can readily apply to such funding sources as S.B.A., banks, OMBE, etc, this does not necessarily mean they receive the funds they need. In speaking with various people connected in making business loans in the Juneau area, none were able to give a favorable response concerning Tlingit applicants. Southeast Agency does not believe the act is designed to equalize opportunities between rural and urban Natives in Alaska, rather that the Act was designed to develop and utilize Indian resources to the extent that the Indians "enjoy a standard of living . . . comparable to non-Indian neighbors." Urban Tlingit and Haida Indians do not share a comparible standard of living with their neighbors and as members of the Tlingit and Haida Tribe, they should be considered equally along with rural Native for benefits under the Indian Finance Act .

Any help you can give in helping us understand the intentions of Congress as relates to Tlingit and Haida eligibility to programs under the Finance Act would be appreciated.

Please find enclosed pertinent material relating to the BIA's interpretation of the Indian Finance Act. If you have any questions, please contact me at 907–586–7134.

Thank you, Frank, for looking into this.

Sincerely yours,

JOSEPH G. WILSON,
Native Agency Director,
LILLIAN V. PETERS,
Research Assistant.

U. S. Department of the Interior,
Bureau of Indian Affairs,
Juneau, Alaska, January 26, 1976.

Memorandum.
To: Commissioner of Indian Affairs.
From: Juneau Area Director.
Subject: Reservation Status of Area in Alaska.

Your memo of January 19th referring to the subject creates a precedent which can become a case in point to begin limitations on not only the Indian Financing Act but all other programs of the Bureau here in Alaska. Alaska has until now been considered to have reservation status for all cities, towns or villages whereever our Native people found suitable conditions in which to live. All services of the Bureau Indian Health Service and other government programs extended their services to the Native people no matter where they may live. You now propose to begin limiting these services.

Your memo defines what a reservation is in relation to the Alaska Land Claims but only mentions "near a reservation" and does not define this term or how it is to be applied to the Act. How near a reservation is near? Eklutpa is a recognized Native village under the Act and is within commuting distance to Anchorage, the same is true for Minto and Tanana in relation to Fairbanks.

Should an individual happen to live in a community that is not named in the Lands Claim in Alaska is no valid reason to limit services to him. He could conceivably require more assistance through the Bureau than if he had stayed in a Land Claims named village. Just because an Alaska Native lives in Juneau. Sitka, Kodiak, Anchoreage, Fairbanks or some other un-named community of Alaska not named in the Land Claims doesn't mean he has unlimited resources at his disposal or can borrow money in unlimited amounts for what he might wish or need.

I highly object to the assertions and limitations you have placed on the Credit Program here in Alaska and request that you reconsider your position as to precedents you may have created.

Clarence Antioquia,
Area Director.

U.S. Department of the Interior,
Bureau of Indian Affairs,
Washington, D.C., March 1, 1976.

Memorandum.
To: Juneau Area Director.
From: Commissioner of Indian Affairs.
Subject: Reservation Status of Area in Alaska.

In your memorandum of January 26, 1976 you request reconsideration of the position in my memorandum of January 19, 1976 on the above subject.

The January 19 memorandum simply refers to the statutory definitions of "reservation" in Alaska contained in the Indian Financing Act for the purposes of that Act.

The January 19 memorandum was not intended to concern and does not concern any BIA services other than those provided under the Indian Financing Act of 1974.

A review of the January memorandum has disclosed no erroneous statements in it. However, it is apparent that it is susceptible to the misunderstanding which your memorandum indicates has taken place. Specifically, although it is true, as stated in the memorandum, that cities such as Anchorage which are not held by a native group do not qualify as a reservation for purposes of the Indian Financing Act, this does not necessarily mean that natives in such cities are ineligible for Indian Financing Act benefits. The crucial tests for determining whether an economic enterprise qualifies for a grant are found in 25 CFR 80.7, which provides in pertinent part:

"To be eligible for a grant an economic enterprise must be located on an Indian reservation or located where it makes or will make an economic contribution to a nearby reservation by providing employment to tribal members residing thereon or by expending a portion of its income for materials or services on the reservation. . . ." (Underscoring added)

Similar eligibility requirements for loans to Indians from the revolving loan fund are found in 25 CFR 91.2(a)(1) and for loan guaranties and insurance in 25 CFR 93.3(a).

In every instance where a grant, loan or guaranty or insurance does not directly involve a defined reservation area the determination on whether it is an eligible transaction under the Indian Financing Act depends upon whether the transaction will have the impact upon such reservation areas required by the cited regulations. This is the standard required not only for Indians residing in States other than Alaska but also for Alaska Natives in Alaska. After reviewing, again, the legislative history of the Indian Financing Act we can come to no other conclusion.

However, we perceive nothing in the Indian Financing Act or regulations to preclude special Alaska situations from being taken into account in determining whether a particular economic activity benefits an Alaska reservation area for the purpose of the Indian Financing Act.

MORRIS THOMPSON,
Commissioner.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Juneau, Alaska, January 19, 1976.

Memorandum.
To: Area Director, BIA.
From: Field Solicitor, Juneau.
Subject: Eligibility of individual Tlingit and Haida members for guaranteed loan under the Indian Financing Act of 1974.

This is in reference to your memorandum dated October 6, 1975, as supplemented on December 15, 1975, which asks for my opinion regarding the above subject. Your memorandum indicates that all Tlingit and Haida members are eligible to be members of their organization's credit union and that membership in the union requires a fee. The credit union is chartered by the U.S. Bureau of Federal Credit Unions. Your specific question refers to the eligibility of individual members of the Tlingit and Haida organization who are not members of the Tlingit and Haida Credit Union.

25 CFR 93.8 provides in relevant part follows: Indians who are members of tribes recognized by the federal government as eligible for services from the Bureau of Indian Affairs which are not making loans to its members and who are not members of *or eligible for membership* in an organization which is making loans to its members are eligible for guaranteed or insured loan. [emphasis added].

The above regulation is based on Section 101 of the Indian Financing Act of 1974, 25 U.S.C. § 1461, 88 Stat. 78, which also contains the following proviso regarding loans by organizations to its members from moneys borrowed from the Indian Revolving Loan Fund:

> *Provided*, That, where the Secretary determines a rejection of a loan application from a member of an organization making loans to its membership *from moneys borrowed from the fund* is unwarranted, he may, in his discretion, make a direct loan to such individual from the fund. The fund shall also be available for administrative expenses incurred in connection therewith. [emphasis added].

The fact that an Indian is a member of the Tlingit and Haida organization and not its credit union is not controlling since 25 CFR 93.8 clearly includes reference to those who are eligible for membership as emphasized above. A more difficult question is whether the "loans" made by an organization in 25 CFR 93.8 refers to loans in the case at hand which are not from the Revolving Loan Fund. You have also advised that no loans from the Revolving Loan Fund are currently available to members of the Tlingit and Haida organization.

The above proviso in 25 U.S.C. § 1461 specifically refers to moneys borrowed from the Revolving Loan Fund and it could be argued that in reference to the language determining eligibility in 25 CFR 93.8, the failure to so define loans by tribal organizations means that if an Indian is eligible for any kind of tribal organization loan, he is not eligible for a guaranteed or insured loan. It is interesting to note, however, that in the legislative history of Section 101, the word "loans" is not specifically defined as loans from the Revolving Loan Fund as in the above-cited proviso. The relevant language is found at *U.S. Code Congressional and Administrative News* House Report No. 93–907, Second Session (1974) at 2876:

> Section 101 provides for the consolidation of existing Indian revolving loan funds into one Indian Revolving Loan Fund. The Secretary is authorized to make direct loans from such fund to Indian tribes or organizations and to individual Indians who are not members of, or eligible for, membership in an Indian tribe making loans to its members provided that the Secretary is authorized to make direct loans to individuals who have been rejected for *a loan by the tribe* if such rejection is unwarranted. The fund can be used for administrative expenses. [emphasis added].

It is my opinion that the word "loan" was not specifically defined in the above-emphasized portion of the House Report because of the intention that the only type of loans contemplated in Section 101 were those from the Revolving Loan Fund. Thus an Indian is prohibited from applying for a guaranteed or insured loan only if he is eligible for a loan from the tribal organization's Revolving Loan Fund. Since no such fund currently exists for the Tlingit-Haida organization, it is my opinion that members of said organization are eligible for guaranteed or insured loans.

JOHN H. KELLY,
Field Solicitor.

ATTACHMENT 5

SOUTHEAST AGENCY ADMINISTRATION,
April 14, 1976.

Memorandum to: Agency superintendents.
Attention: Credit and Financing.
From: Area Director, Juneau.
Subject: Fiscal year 1976 grant funds availability.

To be eligible for consideration for a IBDP grant every applicant *must* meet *all* of the following requirements.

1. Must be an eligible enrolled individual Indian or an organization which is at least 51 percent eligible Indian ownership. (25CFR80.3)
2. Must be unable to meet their total financing need without securing a grant. (25CFR80.3) and (25CFR80.17)
3. Must have a form of organization acceptable to the Commissioner. (25CFR 80.3)
4. Must have all necessary legal authority to engage in their proposed enterprise. (25CFR 80.7)
5. Must have contributed all of his available assets to his proposed enterprise. (25CFR 80.17)
6. Must be self sustaining as evidenced by pro forma balance sheets, operating statements and cash flow statements. (80 BIAM 2.2D)
7. The proposed enterprise must be profit oriented. (25 CFR 80.4)
8. Must bring direct economic benefit to a tribe or individual Indians living on a reservation. (25 CFR 80.2)
9. Must create employment for Indians. (25 CFR 80.4)
10. Must be located on or near a reservation. (25 CFR 80.4)

If near a reservation can only be considered as a second priority. (Fiscal year 1976 there will be no funding for second priority applicants—25 CFR 80.7)

11. The proposed enterprise must have tribal approval if it is to be on reservation (priority one) (25 CFR 80.7)
12. The applicant must be able to show that the required additional financing is either available or committed. (80 BIAM 1,80)
13. Must demonstrate technical ability to succeed. (25 CFR 80.17)
14. Must show how grant funds will be used. (Not for refinancing.) (25 CFR 80.17)
15. Second grants to same applicant must meet the additional requirements of 25 CFR 80.17(g)
16. Must show by pro forma financial statements that available capital, including the requested grant is adequate to allow the project to become self sustaining and have a strong likelihood of success. (80 BIAM 3.3)
17. Must show that there is a market for the product or service provided by the proposed enterprise. (80 BIAM 3.3)
18. The application must show that the applicant has developed a satisfactory plan of operation for the business. (Form 5-8003 D.2)
19. Should meet all other requirements of the BIAM.

The above cited 19 items are required to be present before a person has a basis for making application for a grant. If the application fails to provide adequate information to demonstrate that the above 19 criteria are all positively in compliance then the application cannot be considered for funding because it is incomplete. In cases where agency credit staff have an incomplete application they should work to complete the application properly before presenting that application for consideration to the Area review committee. In addition to the above a reasonable ratio of Indian jobs created for grant dollars expended must still be maintained.

The additional concept of comparison of the relative merit of competing applications will apparently not be applicable to the fiscal year 1976 Grant program in the Juneau Area. The initial commitment of funds to eligible applicants did not exhaust our entire appropriation for this fiscal year so we will continue to fund qualified applications from any agency so long as funds remain.

CLARENCE ANTIOQUIA,
Area Director.

REPORT ON THE LEGISLATIVE HISTORY OF THE INDIAN FINANCE ACT

Public Law 93-262, the Indian Finance Act, became the second of President Nixon's seven Indian measures to be enacted. President Nixon first introduced the "Indian Financing Act of 1970" to Congress in his Indian Message of July 8, 1970:

"As I said in September of 1968, it is critically important that the Federal Government support and encourage efforts which help Indians develop their own economic infrastructure. To that end, I am proposing the Indian Financing Act of 1970" (The essense of Titles I & II of the act are found in the message).

The President's Financing Act is encompassed in HR 18571 and S 4116. In order to gather by-partisan support for his bill, the President requested that both Democrats and Republicans introduce the legislation. To enhance the passage of his bill, the President sought the support of leading men on both the House and Senate Interior and Insular Affairs Committee. The leading Republican John Saylor of the House Interior and Insular Affairs Committee formally introduced HR 18571 on July 21, 1970, and Chairman Jackson of the Senate Interior and Insular Affairs Committee introduced S 4416 on July 23, 1970. Although the bills had the support of powerful men on both committees and, in addition, the backing of leading representatives from the Indian Affairs Subcommittee, the bills never came up for hearings primarily because the Subcommittees were preoccupied with other legislation which they regarded as more urgent (such as the Alaska Native Land Claims Act). Consequently, these two bills HR 18571 and S 4116 died in their respective Houses.

In 1971, the President again initiated the action for an Indian Finance Act. Senator Jackson and Senator Abourezk introduced the Administration's proposals— S 1013 the "Indian Financing Program of 1971" and S 1015, the "Indian Business Development Program Act." But again, both the Senate and House Subcommittees agenda was too busy with other legislation to hold hearings on these bills.

In 1972, however, the Senate schedules hearings on S 2036 "Indian Finance Act of 1971" and S 2237 "Indian Business Development Program Act." The Department of Interior, on behalf of the Administration, submitted S 2036 to Congress April 13, 1971 and Senator Byrd (for Mr. Jackson, himself, and Mr. Allot) introduced the bill to the Senate June 9, 1971. The Department of Interior submitted S 2237 to Congress July 12, 1971, at which time Mr. Jackson introduced the bill to the Senate. Both bills were read twice, referred to the Committee on Interior and Insular Affairs, and then referred to the Senate Indian Affairs Subcommittee. August 1, 1972 the Subcommittee held hearings on both bills. During this hearing, the Senators discussed the possibility of combining the two programs (the Finance Program and the Indian Business Development Program) under one piece of legislation. The Assistant Secretary of the Interior, for Public Land Management Mr. Loesch, representing the Administration's view, testified against the adoption of such a union between the two programs. Aside from Mr. Loesch's testimony, a few Native leaders testified about the impact the legislation would have on their tribes. The hearing ended with a report on the Secretary of Interior's letter supporting the passage of this legislation.

But with no action taken on the House side, the bills died in the 92nd Congress.

In 1973, the Administration introduced legislation pertaining to these two programs, S 1341 the "Indian Finance Act of 1971". Similar legislation HR 5371, HR 6493, HR 9843, and HR 10562, was also introduced that Congress. With the increased interest among more representatives, the subcommittees in both Houses finally received the necessary impetus for serious consideration of the legislation. In the Senate, the subcommittee on May 31, 1973 held hearings on S 1341, S 1013 ("the Indian Finance Program of 1971), and S 1015 "The Indian Business Development Program). Because the language in S 1341 was unclear in several places, the Subcommittee voted to delete the language of S 1341 after the enacting clause and insert in lieu thereof the provisions of S 1013 and S 1915, and ordered the bill reported to the full Committee on June 11, 1973. The full Committee approved S 1341, as amended by the subcommittee with some further amendments on July 20, 1973. On July 28, Mr. Mansfield asked unanimous consent that the Senate consider S 1341, calender number 331. There being no objections, the Senate considered the bill. After an amendment had been agreed to the bill was ordered to be engrossed for a third reading, read the third time, and passed.

The House proved to be not as successful as the Senate. On October 12, 1973 the House Subcommittee on Indian Affairs held a hearing on the various proposals for an Indian Finance Act: HR 6371, HR 6493, HR 9843, HR 10562 and S. 1341. During the hearing, John Kyle the Assistant Secretary of the Interior for Congressional and Public Affairs spoke favorably on the bill in behalf of the Administration. Various Native leaders testified on the impact the legislation would have on their tribes (among these are the key testimonies of Clarence Jackson, Ray Paddock and Robert Williard). The full Committee on Interior & Insular Affairs did not hold any hearings on the proposed legislation. Again the attempts to push the legislation through Congress came to a standstill.

But in 1974, the House Subcommittee proved successful in scheduling a hearing with the full Committee. March 13, 1971 the Committee favorably reported HR 6371 to the Committee of the Whole House on the State of the Union. Mr. Meeds, Chairman of the House Indian Affairs Subcommittee moved that HR 6371 be brought to the attention of the House floor. He yielded himself time to explain the various amendments the Subcommittee had proposed, i.e. the substitution of the language with the adoption of HR 9843 language (which is identical to S 1341 as passed by the Senate) and the addition of a new title providing management and technical assistance to the economic enterprises receiving benefits from the Act. In addition, Mr. Haley, Mr. Taylor, Mr. Regula, and Mr. Zwach also presented supportive statements. The Speaker then acknowledged Mr. Meeds request for consideration of the bill as amended, and HR 6371 was passed. Mr. Meeds presented an amendment which was agreed to and a motion to reconsider was laid on the table.

March 27, 1974, Mr. Mansfield brought S 1341 to the attention of the Senate. The Senate favorably considered the message from the House, i.e. the House amendment to the bill. Mr. Jackson, after urging his colleagues to favorably pass on the legislation, moved that the Senate concur with the amendment of the House. The Senate did so, but also added a small amendment. On April 1, 1974, Mr. Meeds asked the House for unanimous consent to concur in the Senate amendment. The Senate amendment to the House amendment was concurred in and a motion to reconsider was laid on the table. The Indian Finance Legislation had finally made it through both Houses. On April 13, 1974, President Nixon signed the Indian Finance Act into law.

CENTRAL COUNCIL OF THE TLINGIT AND HAIDA INDIANS OF ALASKA,
JUNEAU, ALASKA, *October 27, 1976.*

MORRIS THOMPSON,
Commissioner, Bureau of Indian Affairs,
U.S. Department of the Interior,
Washington, D.C.

DEAR COMMISSIONER THOMPSON: The Central Council of the Tlingit and Haida Indians of Alaska hereby appeals the decision of the Area Director, Juneau Office BIA, dated October 7, 1976 to deny our tribal application for a tribal development grant under Section 104 of the Indian Self-Determination and Education Assistance Act (88 Statute 2203; hereafter, "the Act").

We contend that the Area Director has erroneously interpreted and applied the Act.

We contend that under Sec. 4(b) of the Act we are the "Indian Tribe" which has the legal authority to represent all Tlingits and Haidas. Congress legislatively recognized our legal existence as the Indian Tribe representing all Tlingits and Haidas in the original Jurisdictional Act of June 19, 1935 (49 Stat. 388), the Act of August 19, 1965 (79 Stat. 543), and the legislative history developed pursuant to the latter Act.

Secondly, Congress has continuously recognized our existence as an Indian Tribe representing all Tlingits and Haidas in the course of legislative hearings. I particularly refer you to the legislative history surrounding the enactment of Alaska Native Claims Settlement Act (85 Statute 688). In this monumental transaction of and between the Federal government and all Alaska Natives, the Congress never, for one moment, questioned the right of the Central Council of the Tlingit and Haida Indians of Alaska to represent all Tlingits and Haidas in order to forever disclaim aboriginal Indian Title in exchange for a legislative settlement. We can only question the propriety and even motivation of BIA officials who supposedly have a fiduciary responsibility to the Indian Tribes, who were so willing to *not* question the right of the Central Council Tlingit and Haida Indians of Alaska to represent all Tlingits and Haidas when we agreed to disclaim further claims to Alaska lands, but subsequently question the authority of the Central Council of the Tlingit and Haida Indians of Alaska when the Central Council seeks to assert its rights under an Act of Congress which seeks to *strengthen* tribal government.

The failure of the Bureau of Indian Affars to recognize the Central Council of the Tlingit and Haida Indians of Alaska as an "Indian Tribe" under Sec. 4(b) of the Act will most assuredly, eventually undermine the political authority of the Central Council of the Tlingit and Haida Indians of Alaska. We oppose any such effort. We find it a bitter irony that the BIA Area Office has chosen to implement the Self-Determination Act in such a way as to undermine, rather than strengthen our tribal government.

The Area Director's denial contended that we have not complied with Sec. 4(c) of the Act. Since we assert our rights as *the* tribal government, Sec. 4(c) is inapplicable to our situation.

Further, even if one assumes that Sec. 4(c) is applicable, the Area Director has not recognized the intent of the Department of Interior Solicitor's opinion, dated May 21, 1973. This opinion states that the authorizing resolution is not a requirement of the Act, but of regulation. The Commissioner may waive this regulation where it is an onerous burden on the tribe. This requirement is an onerous burden on Central Council Tlingit and Haida Indians of Alaska and we suggest that if the Commissioner queried any Alaska Native regional tribal government, he would find the same heavy burden.

We would like to point out that the Bureau had to grant the Tanana Chiefs Conference $25,000 just to procure such resolutions. These problems are as great or greater in other regions. Therefore, we contend that if the Bureau treated everyone alike, it might have to spend ½ of a million dollars just to comply a bureaucratic grant application process. This would be a regrettable and irresponsible waste of the scarce resources available to Alaska Natives.

Finally, the Area Director of the Juneau Area Office has recognized the Central Council of the Tlingit and Haida Indians of Alaska as an Indian Tribe in two letters to the President, Central Council, Tlingit and Haida Indians of Alaska, dated August 30, 1976 and October 7, 1976. Again, even if we assumed that the Central Council of the Tlingit and Haida Indians of Alaska fell under the purview of Sec. 4(c) of the Act (and we do not concede that), you will note that in the Solicitor's opinion dated May 21, 1976, Page 3, paragraph 3, Mr. Soller states that not every contract (and impliedly, grant) to a regional corporation (and impliedly, every regional Indian tribe) will necessarily benefit every village or village corporation in the region. Under the hypothetical assumption that the Central Council, Tlingit and Haida Indians of Alaska is only one of many Indian Tribes in the region, we contend that our application is not of direct benefit to every village within our regional tribal boundary. Therefore, the requirement of village consent is inappropriate even under these hypothetical circumstances.

We would also like to point out that although the Central Council Tlingit and Haida Indians of Alaska represents approximately 20 percent of the Alaska Native population, entities approved for grants under Sec. 104 in our region have received only approximately 7 percent of the total funds. The Tlingits and Haidas are being seriously shortchanged by the actions of the Juneau Area Director.

To summarize, we are *the* Tribal governing body for all Tlingits and Haidas. The tribal officials are legitimately elected in a democratic manner. We have had continuous congressional recognition as the legitimate representative of all Tlingits and Haidas. In this appeal, we only ask that that continuous recognition of the Central Council of the Tlingit and Haida Indians of Alaska be reconfirmed by the Commissioner.

We the Executive Committee of the Central Council of the Tlingit and Haida Indians of Alaska request your timely consideration and action on this matter.

Sincerely,

RAYMOND E. PADDOCK, Jr.
President.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS, JUNEAU AREA OFFICE
JUNEAU, ALASKA, *August 30, 1976.*

RAYMOND E. PADDOCK, Jr.,
President, Tlingit and Haida Central Council, Juneau, Alaska

DEAR RAY: This is in response to Juanita Corwin's recent request of how the Juneau Area views the Tlingit and Haida Central Council as it relates to the definitions of Public Law 93-638. Specifically, she asked if we consider the Central Council of Tlingit-Haida Indians of Alaska as a "Tribe" or a "Tribal Organization."

We acknowledge that the CCTHIA was authorized and established pursuant to Public Law 152 of the 74th Congress of June 19, 1935 and Public Law 89-130 of August 19, 1965. For the purposes of those Acts, the United States Government (through the Department of the Interior and Bureau of Indian Affairs) has officially recognized the CCTHIA as the Tribal Governing Body in all matters relating to the judgment funds which the United States holds in trust for the Tlingit and Haida Indians of Alaska. This recognition and trust relationship includes Secretarial (or his Designee's) approval of tribal budgets and attorney contracts.

Based on this historic recognition and relationship, we recognize the Tlingit and Haida Central Council as the tribal governing body of the Tlingit and Haida Tribes of Alaska for the purposes of Public Law 93-638.

Also included in the definition of "Indian Tribe" in Public Law 93-638 is ". . . *including any Alaska Native Village* (italics added) or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat 688) which is Federally recognized as eeligible by the United States Government through the Secretary for the special programs and services provided by the Secretary to Indians because of their status as Indians." We have difficulty in understanding the rationale and properiety of including regional profit making corporations and village profit making corporations in the definition of "Indian Tribe", however, that is not the major issue at this particular time. What is at issue, however, is the inclusion of "any Alaska Native Village" in the definition.

We do feel the inclusion of "any Alaska Native Village" in the definition is appropriate. Similar to our recognition of the Central Council, the Bureau has also historically recognized villages as "tribes" eligible for many of the ". . . special programs and services provided by the Secretary to Indians because of their status as Indians." Villages have been eligible and received grants under the Bureau's Tribal Government Development Program, Federal Revenue Sharing program, Law Enforcement Assistance Act and other programs. More importantly, however, is the fact that villages have historically performed substantial governmental functions through their village councils. Inasmuch as "any Alaska Native Village" is included in the current definition of "Indian Tribe" and nothing in the Act qualifies or limits their status, our interpretation is that villages are also tribes equal in status to the tribal status of the Central Council. Based on this interpretation, we have concluded that, for the purposes of Public Law 93-638, if the Central Council wishes to contract to provide services to villages within Southeast Alaska, the provisions of Subpart 271.2(q) applies, especially the portion that reads ". . . provided, that a request for a contract must be made by the Tribe that will receive services under the contract; provided further, that in any case where a contract is let to an organization to perform services benefiting more than one Indian Tribe, the approval of each such tribe shall be a prerequisite to the letting of such contract."

We recognize that under the current definition, individual Alaska Natives could conceivably be members of four or more tribes, for instance in Southeast Alaska, (1) Central Council of Tlingit and Haidas of Alaska; (2) Sealaska Corporation; (3) A village corporation organized pursuant to Section 8A of ANCSA (85 Stat 68a); (4) An IRA organization created pursuant to Section 16 of Alaska Reorganization Act (49 Stat 1250).

We doubt seriously that the drafters of Public Law 93–638 contemplated this as a potential problem. Regardless, the definition is in the statute and regulations and therefore until the statute is amended (which we firmly believe should be) we do not feel we have administrative discretion to amend the definition by eliminating any entity currently defined and therefore must abide by it.

We hope this letter clarifies how we view the CCTHIA as it relates to Public Law 93–638.

Sincerely yours,

CLARENCE ANTIQUIA, *Area Director.*

APPENDIX III

Assessing the Implications of the Present Definition of Tribe(s) Contained in the Indian Self-Determination and Education Assistance Act

p. 292 blank

THE ALASKA NATIVE FOUNDATION,
Anchorage, Alaska, October 22, 1975.

Memorandum to: Mr. Clay Antioquia, Juneau Area Director, Bureau of Indian Affairs.

From: Mr. Emil Notti, President, Alaska Native Foundation in cooperation with Mr. Lee Gorsuch, Senior Associate, Robert R. Nathan Associates, Inc

Subject: Assessing the implications of the present definition of tribe(s) contained in the Indian Self-Determination and Education Assistance Act, and changes related thereto.

INTRODUCTION

The Indian Self-Determination and Education Assistance Act, Public Law 93-638, was signed into law on January 4, 1975. Within ten months, the Secretary of Interior was directed to prepare and publish, after consultation with Indian organizations, the rules and regulations necessary to carry out the provisions of the Act. Two statewide meetings and numerous discussions were held over the past several months between the BIA and representatives of various Alaska Native organizations. While much progress has been made in preparing the rules and regulations, two problems arising from the Act have yet to be resolved. Both problems are unique to Alaska (for reasons which will be discussed below) and can best be resolved by a consensus among Alaska Native people. The two problem areas are the confusion and uncertainty surrounding the advantages and disadvantages of:

(1) The present definition of a tribe(s) contained in Section 4(b) of the Act, as it applies to Alaska Natives; and,

(2) The provision contained in Section 4(c) which requires all tribes affected by a contract let pursuant to the Act to approve or consent to it.

At the request of the Alaska Federation of Natives, the BIA area office contracted with the Alaska Native Foundation and its collaborators to assess these two problems and report its finding to the Area Director. The report, as follows, was to be prepared in sufficient time for the Area Director to share it with the AFN convention. Hopefully, the report will be of help to the convention as it develops its recommendations on how to address these two unresolved problems.

BACKGROUND

Purposes of the Act

The President of the United States set out in 1970 the basic tenets of Indian Self-Determination in his now famous declaration of policy. Three proposals in the President's legislative package were specifically designed to carry out the Indian Self-Determination policy. These were:

(1) Require the Secretaries of the Interior and Health, Education, and Welfare to transfer to Indian tribes, at their request, control and operation of Bureau of Indian Affairs and Indian Health Service programs and services;

(2) Permit Indians to contract with the Bureau of Indian Affairs for the administration of Johnson O'Malley (JOM) education funds, and to authorize the detail of commissioner personnel of the Public Health Service to Indian tribal organizations which assume the control and management of Indian Health Service programs; and

(3) Provide for continued fringe benefits (such as compensation for injury, retirement, life insurance and health benefits) to Federal civil service employees who transfer to Indian tribal organizations to perform the services they formally performed as government employees.[1]

These proposals were specially designed to overcome the government's red tape which effectively obstructed Indians' and Alaska Natives' desires to control and administer the various federal programs designed for their benefit. In the four years that followed the President's Indian Self-Determination proclamation,

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[1] U.S. Senate Report, No. 93-762, 93d Congress, second session.

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various legislative proposals originating from the proclamation were introduced but none enacted. However, on January 4, 1975 the President signed into law the Indian Self-Determination and Education Assistance Act.

The Self-Determination Act draws principally from Senate Bill No. 1017, which provided the "flexible authority to efficiently and realistically permit contracting of Bureau of Indian Affairs and Indian Health Service programs to Indian tribes while maintaining the integrity of the programs and services funded by Federal appropriations."[2] Hence, essentially for the first time Indians and Alaska Natives have both the legislatively recognized right and the administrative means to control and administer various federal programs and services. It is significant for this discussion to bear in mind that the central theme of *the Self-Determination Act is to provide an efficient and realistic means of contracting BIA and IHS programs and services.*

Contracting Federal programs in Alaska

If the goal of the Self-Determination Act is to facilitate tribal contracting of federal programs it is practical to examine Alaska's experience to date. The recently published *2(c) Report: Federal Programs and Alaska Natives* prepared for the Secretary of Interior pursuant to Section 2(c) of the Alaska Native Claims Settlement Act, describes and analyzes, in detail, a) the social-economic well-being of Alaska Natives; b) twenty major federal programs serving Alaska Natives; and, c) Natives' views toward their well-being of federal programs.

In its summary the *2(c) Report* states "Regional Native leaders and program administrators interviewed, overwhelmingly endorsed both Native services."[3] The study also reported that of the 155 randomly sampled village leaders, over 80 percent stated their beliefs that government programs would be better handled through regional and village Native organizations.[4]

A cursory review of the funding available to carry out the twenty federal programs, described in the *2(c) Report*, reveals that only a few federal programs, such as schools and clinics could be realistically contracted out at the village level, and even in those instances multi-village arrangements would probably be required. For example, in education the standard operational unit is a school district, which generally consists of at least one four-year high school and its feeder (elementary) school(s). Similarly, while health clinics and health aides function on a village level, they too are necessarily tied to a larger system, namely the district hospitals, which are unlikely to be organized below the regional level. These observations would generally hold true for all but the larger Native villages (populations of 1,000 persons or more) of which there are only five.

Although the Indian Self-Determination Act is aimed principally at various BIA and IHS programs, it is also intended to ensure ". . . maximum Indian participation in the direction of educational as well as other federal services to Indian communities so as to render such services more responsive to the needs and desires of those communities." (Public Law 93–638 Section 3(a)). Such other federal programs for Indians include: the Indian Education Act, Title III of the Comprehensive Employment Training Act, the Public Works and Economic Development Act, the Community Services Act and others.

It is likely that the Self-Determination Act's definition of tribe(s) will have important implications on various other Indian programs. For example, although the BIA Employment Assistance program may not have adequate administrative funds to contract the service to each of the twelve Native regions, it could possibly do so if each of the regions were recognized as "tribe(s)" and were already operating manpower programs under Title III of the Comprehensive Employment Training Act. The same principle of "cumulative effect" applies to various programs in housing, social services and community development. Hence, a standard definition of tribe(s) could facilitate contracting of various federal programs. Unfortunately, rather than contribute to a standardization of definitions the Self-Determination Act adds one more set of unique definitions to the federal statutes.

A review of the definitions of terms such as "Tribe(s)", "Indian", and "Reservations", are contained in Appendix A. The review reveals extensive variations in definitions with no discernible justification for the differences. Standardizing the definitions of these three terms as they apply to Alaska could contribute substantially to maximizing Native participation and control of federal programs designed to enhance Native well-being.

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[2] *2(c) Report: Federal Programs and Alaska Natives*, U.S. Department of the Interior, 1975, "Introduction and Summary", part B, section 1, p. 2.

[3] *2(c) Report: Federal Programs and Alaska Natives*, U.S. Department of the Interior, 1975, "Introduction and Summary", part B, section 1, p. 2.

[4] U.S. House of Representatives, Report No. 93–1600, 93d Congress, 2d Session.

In summary, Alaska's experience indicates that its' prospects of achieving the central purpose of the Self-Determination Act, namely contracting federal programs and services, lies in its' ability to effectively control and administer programs at the regional level.

PROBLEM NO. 1: DEFINITION OF TRIBE(S)

"Indian tribe" means any Indian tribe, band, nation, or other organized group or community, *including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688)* which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status of Indians; (Public Law 93–638, Section 4(b), *italic* provided).

Excepting the *underlined* portion, the above definition is a conventional one. The *underlined* addition is recognition of the part of the Act's draftsmen that Alaska's tribe(s) are different from those found in the lower forty-eight states. The language represents an attempt to accommodate Alaska's unique circumstances.

As the definition now reads, there could be as many as 465 tribes in Alaska and each Alaska Native is a member of at least four, and possibly of as many as five tribes. Appendix B lists those villages which do not have overlapping tribal entities. The possible Alaska tribes can be organized into five basic categories:

(1) 145 Traditional tribal councils (all Alaska Native villages receiving BIA services which have not organized under the Indian Reorganization Act (IRA) or the Alaska Reorganization Act);

(2) 70 Native villages and groups (such as the Inupiat Eskimos of the North Slope and the Kenaitze Indians of the Kenai peninsula) who have organized under IRA;

(3) One tribe, the Tlinget-Haida Central Council, established pursuant to a federal statute;

(4) 225 Native Villages defined in or established pursuant to the Settlement Act; or

(5) 24 Regional corporations defined in or established pursuant to the Settlement Act.

All of the above entities must be recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

It is unclear who decides, or how one would decide which of the possible groups defined in or established, pursuant to the Settlement Act (categories 4, 5, and 6) would be recognized as tribes since the organizations identified in categories 1 and 2 are already recognized as tribes. The recognition of Settlement Act Corporations simply adds to the list. Hence, legally some 465 tribes could potentially request to contract services. This of course would be an impracticality and an absurdity. Even if substantial funding of a program or service would permit contracting at the village level, for any given Native village, two distinct village organizations could claim to speak for the village. The Act does not prescribe how such competing claims should be resolved (since it clearly did not intend or envision such competition to arise).

In addition to the problem of which entity should represent the village is the uncertainty and divided legal opinion of whether or not the Act's definition includes the twelve Native regional associations named in Section 7 of the Settlement Act. (See Appendix C) Testimony offered during hearings held on Senate Bill No. 1017 and during the two statewide conferences called to review draft regulations on P.L. 93–638 indicates that if such associations are not defined as tribes, they should be.[5]

In summary, the present definition of tribe(s) in the Self-Determination Act creates problems by one, recognizing potentially two tribes for each village, leaving unresolved how the BIA or IHS will decide which tribe to contract with; and two, by recognizing the Native regional profit corporations defined in and established pursuant to the Settlement Act while causing uncertainty as to whether or not the Native regional non-profit corporations are also recognized as tribes (which would mean that two regional tribal entities would exist for each region).

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[5] BIA Memorandum, June 25, 1975, from the Director, Congressional and Legislative Affairs to the BIA Deputy Commissioner.

PROBLEM NO. 2: TRIBAL CONSENT

"Tribal organization" means the recognized governing body of any Indian tribe; and legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities; *Provided, that in any case where a contract is let or a grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to letting or making of such contract or grant;* (Public Law 93–638, Section 4(c), italic provided)

According to H.R. Report No. 93–1600, the italic provision was purposely added to ensure that before any BIA or IHS contract is awarded that would serve two or more tribes, each tribe effected would have to consent to the contract, thereby avoiding instances wherein a tribe would be served by a contract against its' will. The need for this provision was brought to the attention of the Congressional subcommittees in a May 17, 1974 report submitted to the committees by the Commissioner of Indian Affairs, Mr. Morris Thompson; when he wrote, ". . . where a contract could involve programs or activities serving several tribes (such as in the case of Western Washington, Nevada, the New Mexico Pueblos, and other places where a Bureau of Indian Affairs Agency serves more than one tribe), the present language (of S. 1017) of the sections could result in one or more of the tribal governments requesting that a contract be entered into with a "tribal organization" when such contract or organization may be objectionable to other tribal governments whose members would be served under the contract." (United States House of Representatives Report No. 93–1600, Page 25)

The Self-Determination Act was subsequently amended to include the inter-tribal consent provision, and the provision, as it applies to the lower forty-eight Indian tribes, appears to have avoided the potential problems referenced by Commissioner Thompson. However well the provision may accommodate the lower forty-eight Indian tribes, it does not recognize the peculiarities of Alaska's tribes and if left unattended, could present serious obstacles to the implementation of the Self-Determinaton Act in Alaska. These problems are exemplified by realizing that an Association of Village Council Presidents' (AVCP) request to contract with the BIA for regionwide services could potentially be vetoed by anyone of the 116 different village tribes recognized within the AVCP region.

Alaska's tribal peculiarities originate in the fact that most Alaska Natives are members of both village and regional tribal entities. As stated above, under the present definition of tribe(s), most Alaska Natives are members of four different tribes; however, even if the present definition of tribe(s) were amended to recognize only one tribe at the village level and one at the regional level, Alaska's situation would still be distinct from that of the lower forty-eight Indian tribes in that most Alaska Natives would be members of two tribes(s), one village and one regional.

Among the lower forty-eight tribes an Indian is a member of only one tribe, dual membership is an exception. Instances wherein all the members of one tribe are also members of another are rare, if not non-existant.

In Alaska, regional tribes encompass village tribes of common language and culture and are the forum for handling multi-village affairs. To require village tribal consent of regional tribal contracts would be to challenge the fundamental principle of regional tribes.

Where tribal consent, as seemingly intended in the Act, would apply in Alaska is in instances wherein: (a) more than one regional tribe is affected by a proposed contract; and (b) an individual village tribe can feasibly contract for particular federal services at the village level (which is most likely to occur in Alaska's larger Native villages).

In summary, the language of the Act should be clarified to appropriately apply the intent of the consent provision to Alaska's unique situation.

DISCUSSION: ALASKA'S TRIBAL ENTITIES

As reported above, the present definition of a tribe(s) in the Self-Determination Act recognizes potentionally 465 different tribal entities in Alaska, with at least two different entities at the village level and two at the regional level. This proliferation is not only confusing but tends to defeat a fundamental purpose of the Self-Determination which is to vest certain governing rights to an entity which represents, and speaks for its members. If two or more organizations all claim to speak for virtually the same people, little practical effect can be achieved. If organizations serving the same constitutents should disagree on who should contract for services, no contract will be awarded and no self-determination will have been accomplished.

If the principle were established that each Alaska Native village and region should have one tribal entity per village and one per region the question would then be; which entities are the most desirable. The choices are basically between Native corporations established pursuant to the Alaska Native Claims Settlement Act (both village and regional) and other organizations or corporations recognized by the federal government as eligible for federal "Indian" services.

ADVANTAGES AND DISADVANTAGES OF DIFFERENT TRIBAL ENTITIES

Appendix E discusses in greater detail the composition, purpose and advantages and disadvantages of the various types of Alaskan tribe(s) potentially recognized under the present definition. The following briefly describes the composition of different types of tribal entities.

Village and Regional Corporations established pursuant to the Settlement Act are organized as for profit corporations. Their memberships are comprised of shareholders, all of whom initially were Alaska Natives; however, through inheritance, court decrees and, after 1991, through other forms of stock alienation, the membership of the corporations will increasingly include non-Natives.

An analysis of the Native corporations enrollment Appendix D reveals that in 1974 over one-half of the Native village corporations had 25 percent or more of their shareholders residing away from the villages to which they enrolled. In slightly less than one-third of the village corporations fifty percent or more of the shareholders resided away from the villages to which they enrolled. This general residency pattern is also applicable to the regional corporation's shareholders. Hence, membership in the Settlement Act corporations reflects locational and cultural affiliation but not current residence and although nominally they do have some non-Natives.

The traditional and IRA councils on the other hand are formed along residential and occupational lines. Their memberships are more loosely defined but they are exclusively Native and their orientation is generally towards Native persons who reside in the village.

It is in the purposes of the potential tribal entities that the most significant differences exist. Section 2(c) of the Settlement Act states that: "the settlement (including the corporations formed pursuant thereto) should be accomplished . . . without establishing any permanent racially defined institutions, rights, privileges, or obligations, without creating a reservation system or lengthy workship or trusteeship. . . ." (parenthetical reference added)

This is in marked contracts to the purposes the State's IRA councils organized under the Alaska Reorganization Act which are to: ". . . to conserve and develop Indian lands and resources; to extend to Indians the right to form business and other organizations; to establish a credit system for Indians; to provide for vocational education for Indians; and for other purposes."—Public Law 73–538

In practical terms the Settlement Act corporations, particularly at the village level, have within the Native community the preponderance of assets, experience, and leadership. It may be argued that in areas of the State where traditional councils are inactive to rejuvenate them would dilute the efforts of the village corporations. However, since the prospects for substantial contracting at the village level are limited, this concern may be considerably lessened.

Based on the above and testimony offered during the two Alaska statewide meetings held on the Self-Determination Act, there appears to be a consensus that the Native regional profit corporations should not be recognized as tribal entities and that the regional Native associations named in Section 7 of the Settlement Act should. Similarly, since virtually all Alaska Native villages are currently recognized as tribes, either as traditional or IRA organizations (see Appendix B), reference to Native villages or village corporations defined in or established pursuant to the Settlement Act could be deleted and thereby eliminate the duplicate representation at the village level. The end result being that the regional non-profit associations would become the regional tribal entities and the traditional and IRA councils would become the exclusive village tribal entities.

DISCUSSION: THE TRIBAL CONSENT PROVISION

As discussed above, the tribal consent provision could be appropriately applied to Alaska by limiting its application to inter-regional tribal contracts and to instances wherein an individual village can feasibly contract for federal programs at the village level.

One concern raised by BIA officials was whether or not the above tribal consent provision would provide adequate safeguards against regional tribes exercising their authority to re-program program funds for administrative and other purposes against the will of affected village tribe or program beneficiaries. One approach to the issue with sacrificing the re-programing authority which is generally viewed as highly desirable, would be to apply the tribal consent provision whenever the regional tribe authorized substantial re-programing of program or service funds. This could be accomplished by limiting the tribal consent provision to: (a) inter-regional contracts; (b) intra-regional contracts in which the integrity of programs and services are altered; and (c) instances wherein an individual village tribe can feasibly contract for programs at the village level. Then via regulation and interpretation of what constitutes an alteration of the integrity of programs and services could be drafted perhaps implying an arbitrary percentage of the programs budget.

CONCLUSIONS

In conclusion, the following question might be brought before the ANF convention for its consideration and resolution:

(1) Is one village tribe per village and one per region the desired arrangement?

(2) Should the regional tribal entities be the regional non-profit corporations or the profit corporations?

(3) Should the village tribal entities be the traditional villages and IRA (ARA) organizations or the village profit corporations formed pursuant to the Settlement Act?

(4) Should the tribal consent provision apply in Alaska only when a proposed contract effects more than region and when a contract could be feasibly administered at the village level or as it is presently stated in the Self-Determination Act?

(5) Does Alaska need standard definitions for the terms, Indian, tribe, and reservation and, if so, what should they be?

(6) How can the responses to questions one through five best be implemented?

If the convention desired to recognize the traditional and IRA organizations and the regional non-profit corporations this could be accomplished through an amendment of the Section 4(b) definition of tribe by deleting the phrase ". . . , including any Alaska Native Village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act . . ." and adding of the end of the definition the phrase ". . . , including any Native regional association or corporation named in Section 7(a) of the Alaska Native Claims Settlement Act."

Similarly if the desire of the convention were to restrict the application of the tribal consent provision contained in Section 4(c) of the Self-Determination Act this could be accomplished by inserting after the "Provided . . . benefiting more than one Indian tribe," the phrase: "whose members are not otherwise represented within the tribe initiating the contract request, unless a benefiting tribe can feasibly perform the services itself,".

And finally a standard definition of reservation comparable to that contained in Section 14–H–1.270–2 of the March 19, 1975 "Buy Indian Act" regulations could be adopted. It reads "Indian reservation means all Indian reservations, former Indian reservations in Oklahoma, and lands occupied by other Indian groups and by Alaska Native communities, including all or any part of any of the twelve regions in Alaska established pursuant to the Alaska Native Claims Secretary, or his designee". Such a definition could avoid any future problems concerning an Indian's (or Native's) eligibility for service.

APPENDIX

Re Public Law 93–638 and the Alaska Native Claims Settlement Act

Although Public Law 93–638 is primarily directed at Indian education and health programs, Section 7(b) of the Act creates Native preference in hiring, training and subcontracting in all Federal legislation enacted "for the benefit of

Indians". The Department of the Interior has taken the position that Section 7(b) applies to be the Alaska Native Claims Settlement Act.

The language of Section 7(b) clearly has broader scope than educational and health programs. It applies to all legislation for the benefit of Indians. Indeed the Department of the Interior has taken the position that ANCSA is such legislation. Recently, in the litigation which established that principle the Secretary indicated that the BIA will administer all Native preference elsewhere in the Department under ANCSA.

This has come about as a result of a lawsuit brought by Ahtna, Inc., one of the 12 regional Native corporations, against the Department of the Interior and BLM for not awarding four village cadastral survey contracts to an Ahtna engineering co-venture. Ahtna contended that BLM had failed to follow Section 7(b) in letting the contracts. Ahtna further argued, *inter alia*, that absent regulations promulgated pursuant to that Act, Ahtna was unable to determine what administrative rights it had.

The Department of the Interior, through the United States Attorney's office in Anchorage, effectively mooted the issue by agreeing to cancel any contractual processes under way involving the four Ahtna villages until regulations were issued. In effect, the government conceded the applicability of Public Law 93–638 to contract issued under ANCSA.

The Department further agreed that it would circulate to Ahtna applicable regulations under the Act before the surveying contracts were again put up for bid. This has now been done. Notwithstanding the fact that this was a BLM contract, the government has handed over the BIA Regulations. Thus, at least in the context of the Ahtna lawsuit, it appears to be the Secretary's position that Public Law 93–638 applies to ANCSA, and that the BIA is the appropriate agency for administering Section 7(b) questions as they apply to ANCSA.

There would seem to be no basis for arguing that Section 7(b) does not apply to ANCSA. The Settlement Act is very obviously legislation for the benefit of Indians. Section 7(b) by its terms clearly operates beyond the scope of the specific matters addressed elsewhere in the Act.

Whether the BIA regulations are appropriate for all questions of ANCSA implementation is another matter indeed. For example, what use is there in the BIA administering the preference procedures for the BLM or Park Service. Shouldn't there be more direct contact between the contracting agency and the ANCSA corporation?

This also suggests the importance in not limiting those entities which qualify under the new Act. Given, ANCSA, it is more likely that the regional corporations will be able to take advantage of business enterprise development opportunities that Section 7(b) rightfully presents, than the non-profit regional associations. There remains, of course, the interesting question of whether the non-profit associations are recognized in ANCSA for purposes of Public Law 93–638.

There is also the need for inter-agency coordination regarding the effect of Section 7(b) on ANCSA implementation. While Public Law 93–638 is undoubtedly know to the BIA, there appears to be little awareness of it elsewhere throughout the Department of Interior's Alaskan operations. It is questionable whether this awareness would be enhanced by requiring resource to the BIA procedures by other agencies.

In any case it seems clear that Public Law 93–638 applies to ANCSA. This is an important development. Whether exclusive BIA management of this application is appropriate is a matter which deserves further consideration.

APPENDIX A

SELECTED FEDERAL LAWS OR REGULATIONS DEFINING TRIBE(S), INDIAN(S) AND RESERVATION(S) IN ALASKA

I. GENERAL

A. "The Indian Self-Determination and Education Assistance Act" (1975)

(1) Authorization: Public Law 93–638.

(2) Alaska level of funding: Pending.

(3) Description: This Act provides for maximum Indian participation in determining directions, conduct and administration of Federal programs for, and services to Indians. It includes provisions both for contracts and grants

to "Indian Tribal organizations" (Title I) and expanded Indian education assistance (Title II).

(4) Definitions used:

(a) "Indian" means a person who is a member of an Indian Tribe.

(b) "Indian Tribe" means any Indian Tribe, band, nation, or other organized group or community, including any Alaska Native village or regional village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(c) "Tribal Organization" means the recognized governing body of any Indian tribe; and legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: *Provided*, That in any case where a contract is let or grant made to an organization to perform services benefiting more than one Inndian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such a contract or grant.

B. *"The Alaska Reorganization Act"* (1936)

(1) Authorization: Public Law 74–538.

(2) Alaska level of funding: Not Applicable.

(3) Description: Extends the provisions of the "Indian Reorganization Act" (1934) to include Alaskan Natives. Gives Indian groups in Alaska the right to organize as legal co[illegible]

(4) Definitions [illegible]

(a) "Indians" That group of Indians in not heretofore recognized as bands or tribes, but having a common bond of occupation, or association, or residence within a well-defined neighborhood, community, or rural district, may organize to adopt constitutions and by-laws and to receive charters of incorporation and Federal loans under sections 10, 16, and 17 of the Act of June 18, 1934. (48 Stat. 984)

C. *"The Buy Indian Act"* (1910)

(1) Authorization: 36 Stat. 861.

(2) Alaska level of funding: Not Applicable.

(3) Description: Authorizes preferential treatment in the negotiation of contracts with Indian contractors for the performance of services or programs to Indians.

(4) Definitions used:

(a) "Indian Reservation" means all Indian Reservations former Indian Reservations in Oklahoma, and lands occupied by other Indian groups and by Alaska Native communities, including all or part of any of the twelve regions in Alaska established pursuant to the Alaska Native Claims Settlement Act (85 Stat 688) that are recognized by the Secretary or his designee.

(b) "Indian Tribe" means any Indian tribe, band, nation or other organization or community, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, and includes village corporations, regional corporations and Native associations provided for or recognized by the Alaska Native Claims Settlement Act (85 Stat 688).

D. "The Intergovernmental Personnel Act" (1970) (as amended).

(1) Authorization: Public Law 93-638, 84 Stat 1909 (as amended).

(2) Alaska level of funding: Not Applicable.

(3) Description: Provides for Federal aid and technical assistance to State and local governments in order to strengthen them through improved personnel administration. Includes provisions for interchange of government employees between federal, state and local levels and training programs.

(4) Definitions used:

(a) "any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village as defined in the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians and includes any tribal organization as defined in section 4(c) of the Indian Self-Determination and Education Assistance Act."

E. *"The Alaska Native Claim Settlement Act" (1971)*

(1) Authorization: Public Law 92–203, 85 Stat. 688.

(2) Alaska level of funding: Not Applicable.

(3) Description: Extinguishes Alaskan Native aboriginal rights and provides for compensations of cash and land title through a formula set out in the act.

(4) Definitions used:

(a) "Native" means a citizen of the United States who is a person of one-fourth degree or more Alaska Indian (including Tsimshian Indians not enrolled in the Metlaktla Indian Community) Eskimo, or Aleut blood, or combination thereof. The term includes any Native as so defined either or both of whose adoptive parents are not Natives. It also includes, in the absence of proof of a minimum blood quantum, any citizen of the United States who is regarded as an Alaska Native by the Native village or Native group of which he claims to be a member and whose father or mother is (or, if deceased, was) regarded as Native by any village or group. Any decision of the Secretary regarding eligibility for enrollment shall be final.

(b) "Native village" means any tribe, band, clan, group, village, community, or association in Alaska listed in sections 11 and 16 of this Act, or which meets the requirements of this Act, and which the Secretary determines was, on the 1970 census enumeration date (as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance), composed of twenty-five or more Natives;

F. *"The Indian Financing Act" (1974)*

(1) Authorization: Public Law 93–262.

(2) Alaska level of funding: Pending.

(3) Description: Provides capital for loans and grants to Indians to promote economic development through utilization of their own resources, both human and physical. Promotes training of Indian personnel so as to assure greater self-determination.

(4) Definitions used:

(a) "Indian" means any person who is a member of any Indian tribe, band, group, pueblo, or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs and any "Native" as defined in the Alaska Native Claims Settlement Act (85 Stat. 688).

(b) "Tribe" means any Indian tribe, band, group, pueblo, or community, including Native villages and Native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

(c) "Reservation" includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act.

II. EDUCATION

A. *"The Johnson O'Malley Act"*

(1) Authorization: Public Law 74–638, 25 USC 452–56.

(2) Alaska level of funding: Fiscal year 1974, 4.5 mill.

(3) Description: Provides funds for supplemental programs in public schools to insure adequate education of Indian children in these schools as opposed to Federal schools.

(4) Definitions used:

(a) "Indian" means an individual of one-fourth or more degree of Indian blood and a member of a tribe, band or other organized group of Indians, including Alaska Natives, which is recognized by the Secretary of Interior as being eligible for BIA service.

(b) "Indian corporation" means an Indian controlled corporation chartered under State law, Federal law, and under tribal authority".

B. *"The Snyder Act" (1921)*

(1) Authorization: Public Law 67–85, 42 Stat 208 25 USC 13.

(2) Alaska level funding: Fiscal year 1974, $11,476,900.

(3) Description: Directs the Bureau of Indian Affairs to provide schools for Indian children who do not have access to public schools.

(4) Definitions used:

(a) "Enrollment in Bureau-operated schools is available to children of one-fourth or more degree of Indian blood, reside within the exterior boundaries of Indian reservations under the jurisdiction of the BIA or on trust or restricted lands under the jurisdiction of the BIA . . ."

(b) 32.1 Appropriations for loans or grants (used for) . . . students of one-fourth or more degree of Indian blood . . . who reside within the exterior boundaries of Indian reservations under the jurisdiction of the BIA or on trust or restricted lands under the jurisdiction of the BIA. Also to students of one-fourth or more degree of Indian blood who reside near the reservation when a denial of such loans or grants would have a direct effect upon Bureau programs within the reservation. After students meeting these eligibility requirements are taken care of, Indian students who do not meet the residency requirements but are otherwise eligible, may be considered.

C. "*The Indian Education Act*" (1972)

(1) Authorization: Public Law 92-318, 20 USC 241, Public Law 93-380, amended 1974.

(2) Alaska level of funding: Fiscal year 1974, Part "A" programs, $3,706,936; Part "B" Programs, $253,000.

(3) Description: Provides funding for programs designed to meet the special educational needs of Indian students. Includes provisions which strengthen Indian self-determination by giving funding priority to Indian organizations and by setting up Indian Parent Advisory Committees.

(4) Definitions used:

(a) "Indian means any individual, living on or off a reservation, who (a) is a member of a tribe, band or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendent, in the first or second degree, of any such member, or (b) is considered by the Secretary of the Interior to be an Indian for any purpose, or (c) is an Eskimo or Aleut or other Alaska Native.

D. "*Federal Impact Aid*"

(1) Authorization: Public Law 81-874, Title I

(2) Alaska level of funding: Fiscal year 1974, $30.4 million.

(3) Description: Provides funding for local school operational expenses in areas where federally owned land or activity has placed a financial burden on the local agencies.

(4) Definitions used:

(a) "Federal property" means real property which is owned by the United States or is leased by the United States and which is not subject to taxation by any State or any political subdivision of a State or by the District of Columbia. Such term includes real property leased from the Secretary of the Army, Navy, or Air Force under section 805 of the National Housing Act, as amended, for the purpose of title VIII of such Act. Such term also includes real property held in trust by the United States for individual Indians or Indian tribes, and real property held by individual Indians or Indian tribes which is subject to restrictions on alienation imposed by the United States. Such term does not include (A) any real property used by the United States primarily for the provision of services to the local area in which such property is situated, (B) any real property used for a labor supply center, labor home, or labor camp for migratory farm workers, or (C) any low-rent housing project held under title II of the National Industrial Recovery Act, the Emergency Relief Appropriation Act of 1935, the United States Housing Act of 1937, the Act of June 28, 1940 (Public Law 671 of the Seventy-sixth Congress) or any law amendatory of or supplementary to any of such Acts.

E. "*School Construction in Areas Affected by Federal Activities*"

(1) Authorization: Public Law 81-815.

(2) Alaska level of funding: (see "Impact Aid").

(3) Description: Provides funding for local school construction in areas where federally owned land or activity has placed a financial burden on the local agencies.

(4) Definitions used:

(a) "Federal property" means real property which is owned by the United States or is leased by the United States, and which is not subject to taxation by any State or any political subdivision of a State or by the District of Columbia. Except for the purposes of section 640 of this title, such term includes (A) real property held in trust by the United States for individual Indians or Indian tribes, and real property held by individual Indians or Indian tribes which is subject to restrictions on alienation imposed by the United States.

III. HOUSING AND ECONOMIC DEVELOPMENT

A. "*Public Works and Economic Development Act*" (*1965*)

(1) Authorization: Public Law 89-136, Public Law 93-423 (amended).

(2) Alaska level of funding: fiscal year 1974 for Natives $807,000; all groups $3,326,400.

(3) Description: Provides funding for public facility construction in areas of economic need.

(4) Definitions used:

(a) "Those additional Federal or State Indian reservations or trust or restricted Indian-owned land areas . . ."

(b) "Provided, however, that uninhabited Federal or State Indian reservations or trust or restricted Indian-owned land areas may be designated where such designation would permit assistance to Indian tribes, with a direct beneficial effect on the economic well-being of Indians".

(c) "Regional Excess Property Program" (the chairman can loan or vest title of excess GSA property to . . .) any Indian tribe, band, group, pueblo, or Alaskan village or Regional Corporation (as defined by ANSA of 1971) recognized by the Federal Government or any State, and any business owned by any tribe, band, group, pueblo, village or Regional Corporation."

IV. EMPLOYMENT

A. "*Comprehensive Employment Training Act*" (*1973*)

(1) Authorization: Public Law 92-203.

(2) Alaska level of funding: No information.

(3) Description: The "Indian Manpower" Programs", section of this act provides specifically for funding for manpower training and employment programs for Indians to reduce their economic disadvantage. It also gives priority to Indian groups for administration of such programs.

(4) Definitions used:

(a) The Congress therefore declares that, because of the special relationship between the Federal Government and most of those to be served by the provisions of this section, (1) such programs can best be administered at the national level; (2) such programs shall be available to federally recognized Indian tribes, bands, and individuals and to other groups and individuals of native American descent such as, but not limited to, the Lummis in Washington, the Menominees in Wisconsin, the Klamaths in Oregon, the Oklahoma Indians, the Passamaquoddys and Penobscots in Maine, and Eskimos and Aleuts in Alaska; (3) such programs shall be administered in such a manner as to maximize the Federal commitment to support growth and development as determined by representatives of the the communities and groups served by this part.

(b) In carrying out his responsibilities under this section, the Secretary shall, whenever possible, utilize Indian tribes, bands or groups (including Alaska Native villages or groups as defined in the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688) having a governing body, for the provision of manpower services under this title. When the Secretary determines that such tribe, band, or group has demonstrated the capability to effectively administer a comprehensive manpower program, he shall require such tribe, band, or group to submit to him a comprehensive plan meeting the requirements of section 1[illegible].

(c) Whenever the Secretary determines not to utilize Indian tribes, bands, or groups for the provisions of manpower services under this section, he shall, to the maximum extent feasible, enter into arrangements for the provision of such services with public or private non-profit agencies which meet with the approval of the tribes, banks, or groups to be served.

V. COMMUNITY DEVELOPMENT

A. "*The Community Service Act*"

(1) Authorization: Public Law 93-644.

(2) Alaska level of funding: Not available.

(3) Description: Provides mainly for the continuance of programs formerly authorized under The Economic Opportunity Act of 1964, such as Headstart, Legal Services, Community Action and the Native American Program. It also transfers the authority for these programs to different agencies and re-allocates funding for them.

(4) Definitions used:

(a) "Community development corporation" means a non-profit organization responsible to residents of the area it serves . . .

(b) The Secretary is authorized to provide financial assistance to public and non-profit private agencies, including but not limited to, governing bodies of Indian tribes on Federal and State reservations, Alaskan Native villages and regional corporations established by the Alaska Native Claims Settlement Act, and such public and non-profit private agencies serving Hawaiian Natives, and Indian organizations in urban or rural nonreservation areas, for projects pertaining to the purposes of this title. In determining the projects to be assisted under this title, the Secretary shall consult with other Federal agencies for the purpose of eliminating duplication or conflict among similar activities or projects and for the purpose of determining whether the findings resulting from those projects may be incorporated into one or more programs for which those agencies are responsible.

(c) No financial assistance may be provided to any project under section 803 of this title or any research, demonstration, or project under section 805 of this title, which is to be carried out on or in an Indian reservation or Alaskan Native village, unless a plan setting forth the project has been submitted to the governing body of that reservation or village and the plan has not been disapproved by the governing body within thirty days of its submission.

(d) "Indian reservation or Alaskan Native village" includes the reservation of any federally or State recognized Indian tribe, including any band, nation, pueblo, or rancheria, any former reservation in Oklahoma, any community under the jurisdiction of an Indian tribe, including a bank, nation, pueblo, or rancheria, with allotted lands or lands subject to a restriction against alienation imposed by the United States or a State, and any lands of or under the jurisdiction of an Alaskan Native village or group, including any lands selected by Alaskan Natives or Alaskan Native organization under the Alaskan Native Claims Settlement Act.

APPENDIX B

A LISTING OF NATIVE VILLAGES WHICH DO NOT HAVE OVERLAPPING TRIBAL ENTITIES PURSUANT TO THE SELF-DETERMINATION ACT

Native villages listed in ANSCA	Native Village Corp. formed pursuant to ANSCA	Alaska tribes recognized by BIA	1972 resident population Native (1)
Ahtna:			
Chitina	Chitina		11
Gakona	Gakona		28
Slana			(1)
Tazlina	Tazlina		0
Aleut:			
Biorka			(1)
Squaw Harbor			8
Unga			(1)
Bering Straits:			
Candle		Candle	(1)
	Council		6
Mary's Igloo	Mary's Igloo		0
Northeast Cape		Northeast Cape	(1)
	Solomon		(1)
Arctic Slope:			
Atkasook	Atkasook		0
Nooiksut	Nuiqsut		0
		Inupiat	(1)
Bristol Bay:			
		Bristol Bay	(1)
		Kanatak	(1)
Savoonski			(1)
Calista:			
Andreafski	Andreafski		(1)
Chanilut		Chaneliak	(1)
Chukwuktoligamute			(1)
	Chuloonawick	Chuloonawick	7
Medfra		Medrfa	(1)
Minchumina Lake			(1)
	Paimiut		(1)
	Umkumuite		0

APPENDIX B

A LISTING OF NATIVE VILLAGES WHICH DO NOT HAVE OVERLAPPING TRIBAL ENTITIES PURSUANT TO THE SELF-DETERMINATION ACT

Native villages listed in ANSCA	Native Village Corp. formed pursuant to ANSCA	Alaska tribes recognized by BIA	1972 resident population Native (1)
Chugach:			
	Chenega	Chenega	0
		Cordova	111
	Eyak		(1)
		Valdez	64
Cook Inlet:			
	Alexander Creek		(1)
	Chickaloon		0
		Kenaitze	246
	Knik		11
		Matanuska	(1)
		Palmer	36
Seldovia	Seldovia		146
		Sterling	0
Salamatof	Salamatof		(1)
Doyon:			
Alatna	Alatna		24
	Bettles Field/Evansville	Bettles	18
Canyon Village		Canyon Village	(1)
		Delta Junction	10
		Flat	(1)
	Healy Lake		0
Makok			(1)
Nabesna			(1)
Paradise			(1)
Koniag:			
Afognak	Afognak		0
	Anton Larsen Bay		(1)
	Ayakulik		(1)
	Bell's Flats		(1)
Kaguyak	Kaguyak		0
	Litnik		(1)
	Port William		(1)
	Uganik		(1)
Uyak	Uyak		(1)
	Woody Island		0
Sealaska:			
		Douglas	9
	Haines	Haines	160
		Ketchikan	1,174
		Metlakatla	0
		Pelican City	47
		Petersburg	302
		Tenakee Springs	0
		Wrangell	476

[1] Not recorded in source.

Source: Native villages listed in ANSCA, sec. 11, Public Law 92–203. Native Village Corp. formed pursuant to ANSCA, "Alaska Native Management Report", vol. 3, No. 1. U.S. Department of Interior BIA, 1972, Alaska tribes recognized by BIA, "American Indians and Their Federal Relationships". 1972 Resident Native Population—2(c) report: "Federal Programs and Alaska Natives," task 1, pt. B, sec. 1.

APPENDIX C

Incorporation dates of Native associations as listed in section 7 of the Alaska Native Claims Settlement Act

Regional association:	*Date of incorporation*
1. Arctic Slope Native Association	Mar. 20, 1972.
2. Bering Straits Association	Apr. 7, 1972.
3. Northwest Alaska Native Asociation (changed to Maneluk June 26, 1973)	Jan. 23, 1967.
4. Association of Village Corp. Presidents	Not incorporated.
5. Tanana Chief's Conference	Oct. 11, 1971.
6. Cook Inlet (Native) Association	Feb. 26, 1965.
7. Bristol Bay Native Association	Feb. 5, 1973.
8. Aleut League	Jan. 26, 1972.
9. Chugach Native Association	Dec. 22, 1965.
10. Tlinget-Haida Central Council (Federal charter)	Aug. 19, 1954.
11. Kodiak Area Native Association	Dec. 12, 1966.
12. Copper River Native Association	Dec. 16, 1972.

Source: Alaska Department of Commerce, Division of Corporations.

APPENDIX D

AN ANALYSIS OF THE RESIDENCE OF ALASKA NATIVES ENROLLED TO NATIVE VILLAGE CORPORATIONS

TABLE 1.—NUMBER OF NATIVE VILLAGE CORPORATIONS HAVING 25 PERCENT OR MORE, AND 50 PERCENT OR MORE OF ITS SHAREHOLDERS RESIDING IN PLACES OTHER THAN THE VILLAGES [1]

	Total number native villages [1]	Number villages having 25 percent or more nonresident shareholders	Number villages having 50 percent or more nonresident shareholders
Native region:			
Ahtna	8	6	5
Aleut	11	9	1
Arctic Slope	8	4	3
Bering Straits	1[illegible]	13	5
Bristol Bay	2[illegible]	17	6
Calista	5[illegible]	17	12
Chugach	[illegible]	3	2
Cook Inlet	[illegible]	4	2
Doyon	[illegible]	28	12
Koniag	9	9	6
NANA	11	3	1
Sealaska	9	8	4
Total	204	121	59

[1] Information not available for 6 village corporations.

Source: 2(c) report: Federal programs and Alaska natives, task 1, part B, sec. 1.

TABLE 2.—PERCENT OF REGIONAL CORPORATION SHAREHOLDERS RESIDING WITHIN THE REGION ENROLLED TO

State/regions	Total enrollment	Percent of total enrolled residing		
		In region enrolled	In another region in Alaska	Outside Alaska
Alaska regions:				
Aleut	3,[illegible]26	50.1	12.9	37.0
Arctic Slope	3,887	72.2	12.8	13.0
Calista	13,389	86.3	7.4	6.3
Bering Straits	7,947	58.3	19.3	22.4
Bristol Bay	5,485	65.6	18.7	15.7
Chugach	2,087	50.9	12.0	37.1
Cook Inlet	6,207	67.3	4.7	28.0
Ahtna	1,087	45.6	37.5	16.9
Koniag	3,317	59.0	9.0	32.0
Nana	4,885	74.6	11.7	13.[illegible]
Doyon	9,596	69.7	9.3	21[illegible]
Sealaska	16,643	57.3	4.2	3[illegible]
Total	77,856	66.7	10.1	23.2

Source: "2(c) Report: Federal Programs and Alaska Natives," task 1, pt. A, sec. 2, p. 3.

Appendix IV

Additional Statements and Communications Submitted for the Record

STATEMENT OF JOHN HEFFLE, PRESIDENT, ASSOCIATION OF INTERIOR ESKIMOS, FAIRBANKS, ALASKA

This regulation which became law on January 4, 1975 is another way the United States Government has caused trouble to the American Indians and the Alaskan Natives. The intent of the law is in itself a fine thing, but once again, non-Indians or non-Alaskan Natives have made a law to govern the rights of people they do not understand; they are neither a part of them nor a tribal member.

In 93–638 it states that the governing body is the sole spokesman for the tribe in contracting matters relating to B.I.A. or I.H.S. programs or services. It is supposed to reinforce tribal sovereignty and allow the designated governing body to speak on behalf of the tribe as its representative. No contracts can be entered into by the tribal organization under 93–638 until specifically authorized to do so by the tribal governing body by use of a resolution. This principle is supposed to enable the tribal government to make an intelligent approach to its use of contracting under the Act and other tools or rights under the regulation. What this has done has caused conflict and dissention between tribes as designated as such in 93–638, Sec. 4, Paragraph B which is highly restrictive and discriminating to Alaskan people since it denotes tribes in Alaska as villages, village corporations, and regional corporations formed under the Alaska Native Claims Settlement Act (85 Stat. 688), while it gives an extremely broad spectrum to the Indians in the Lower 48.

In Sec. 4, Paragraph C under tribal organizations, it would appear that our tribal organization which, by virtue of a resolution hand delivered to Commissioner Thompson in December, 1975, was designated to be a contract entity with the right to contract. Although our village was established by the U.S. Department of the Interior over 37 years ago in Fairbanks and is governed by a democratically elected traditional council, we have reached an impasse as to our tribal status.

We have received services from the Bureau as being eligible for services provided by the United States because of our status as Indians, yet no one has been able to establish whether we are or are not a tribe or a village. We have been continually ignored by the Department of the Interior, Bureau of Indian Affairs, as to why we were left of the land claims when we applied verbally to the BIA representative in December, 1971.

We formed our tribal organization as per the BIA suggestion to facilitate our obtaining tribal status (prior to the Act) but so far, after 5 years, we still have nothing, based on the Solicitor's evaluation of the definition of tribes used in 93–638.

It seems that the BIA uses this Act for its own benefit to become more a controller of the destiny of the American Indians and Alaskan Natives when the BIA should be, in fact, trying its utmost to help the people become self-reliant instead of subjecting them to the continual interference by the BIA by inadequate laws and statutes.

The Act (93–638) states that if a tribal organization wishes to contract for performing services rendered to more than one tribe then a resolution is required for approval by all such tribes. This is another boondoggle. If the tribes want self-determination, let them contract as individuals without interference by others. Contracts should be let, if a tribe, group, tribal organization, etc. indicates they wish to contract and are capable of doing such.

A civilian or non-Indian or non-Native who wishes to contract to build roads, etc. for a state or the federal agency, bids for it without me or other taxpayers being required to produce a resolution either for or against. Why should we be compelled to do things not normally required by others? Our normal way of doing business has been by letter of intent and verbal commitments and, although the Act states that we are not being forced to do anything which is contrary to our tribal way of doing business, we are continually badgered by the B.I.A. that

p. 310 blank

they will not accept anything by the resolutions. By the discriminating restrictive wording in the Act as to tribes, the B.I.A. uses it for its own use even as to the Indian Financing Act.

A resolution was hand-delivered to Washington, D.C. to Commissioner Thompson in May, 1975, to change the wording as reference to tribes and make it read to include Alaskan Indians, Eskimos, and Aleuts, who are an established organization, village, group or who as a trible are living and being governed in a traditional manner, have the right to contract if they so desire. So far no one knows what happened or what action, if any, was taken.

I wonder about the word, "self-determination", is it going to be used correctly? "Self" in Webster's Dictionary is described as follows: "the identity, personality, individuality, etc. of a person; ones own person as distinct from others (noun)

"Adj. Self being uniform or the same throughout. Webster further gives the definition of 'self-determination' as: (1) The right of the people to decide upon their own form of government, without coercion or outside influence. (2) Determination or decision according to one's own mind or will without outside influence. Free will."

I doubt if the Indian Self-Determination Act is the correct name for an Act that has outside influence and hints of coercion by the B.I.A. and its representatives.

As to tribes, again from Webster's Dictionary: (1) Any primitive or nomadic group of people of generally common ancestry, possessing common leadership. (2) A group of persons, families or clans descended from a common ancestor and formed together as a community.

This would seem to describe the community of Eskimo Village—wording used by the B.I.A., I.H.S., state and federal agencies since its inception in 1945.

I sincerely appreciate the time for people to travel to Alaska to allow Native leaders to speak and give oral testimony in regard to congressional legislation that will influence their lives and culture, but, as in the past, I feel our words fall upon deaf ears, that they hear only what they wish and not the wants and desires of the Indian people and Alaska Natives who have become foreigners in their own land.

Is this act and its questionable wording another milestone along the long road of broken treaties and forgotten promises of equality and justice?

Respectfully submitted.

JOHN L. HEFFLE, Sr.,
President, Association of Interior Eskimos.

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C., July 2, 1976.

Hon. JAMES ABOUREZK,
Indian Affairs Subcommittee, Senate Committee on Interior and Insular Affairs, Washington, D.C.

DEAR JIM: We are writing in regard to a series of problems which have developed as a result of existing legislative language. The definition of Alaskan Natives lacks sufficient clarity to permit implementation of major Indian legislation in Alaska in an efficient and workable manner from the point of view of the Alaska Native leadership. The Indian Financing Act, the Indian Self-Determination Act, and the proposed Indian Health Care Improvement bill, all have definitional language which does not account for the complex organizational structures which exist among the Natives of Alaska.

We commend the Committee for its efforts in producing such important Indian legislation. The positive implications of these Acts cannot be overestimated. The Committee's concern for Alaska has been consistently evident throughout the development of Indian legislation. The willingness on the part of the Committee staff to meet with Alaskans has resulted in legislation which takes into account the climatic, geographic, and historic uniqueness of Alaskan Natives. However, the following problems concerning definitional language have been brought to our attention.

The Indian Financing Act of 1974 defines eligibility for loan programs in terms of "reservation" and "non-reservation" areas. This is not only quite a departure from historical treatment of the entire State of Alaska as a reservation area for the purposes of BIA programs, but allows sufficient discretion in terms of implementation such that many deserving Alaskan Natives remain "ineligible" for benefits under the Act.

Public Law 93-638, the Indian Self-Determination Act, defines an Indian Tribe as:

> Any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

The Regional organizations have found this definition cumbersome in their efforts to contract with the Bureau for social service programs for the villages in their regions. The BIA has adopted regulations which require that the regional organizations obtain resolutions from each village to be served. As you are aware, villages in the regions are isolated and at considerable distance from one another. Necessary travel to the villages by the regional organizations is expensive and compilation of the resolutions is time consuming.

The proposed Indian Health Care Improvement Act uses the same definition as the Indian Self-Determination Act. Problems such as those already mentioned may arise with the implementation of the Act.

It is of great importance that a workable legislative definition for Alaskan Natives be developed. Accessability to programs designed to benefit Natives is needed if the intent of major Indian legislation is to be fully realized. The problems that have arisen regarding eligibility for programs has created considerable frustration for many Alaskan Natives.

For these reasons we request the Interior Subcommittee to consider holding hearings in Alaska as expeditiously as possible to clarify these definitional problems. We feel it is essential to receive input from Alaskan villagers.

If legislation to clarify these issues can be developed, many of the problems raised by Public Law 93-638 and Public Law 92-203 can be avoided when the Indian Health Care Improvement Act is considered by Congress.

MIKE GRAVEL,
U.S. Senator.
TED STEVENS,
U.S. Senator.
DON YOUNG,
U.S. Representative.

U.S. SENATE,
Washington, D.C., August 5, 1976.

Hon. JAMES ABOUREZK,
Chairman, Indian Affairs Subcommittee, Senate Interior & Insular Affairs Committee, Washington, D.C.

DEAR JIM: I understand that you are in the process of requesting approval from the Chairman for Subcommittee hearings in Alaska to review the matter of the legislative definitions of Alaska Natives. I applaud your decision.

If your request is approved, I would like to extend to you all the assistance my office can offer. Kris Patterson has been working with the Subcommittee staff on this matter for some time and will be available for further coordination efforts. My staffs in Juneau, Fairbanks, and Anchorage are available to assist in travel and accommodation arrangements. The Alaska offices can also provide assistance in terms of arranging hearing locations, contacting witnesses, etc.

Should the Alaska hearings be confirmed, my staff and I stand ready to do everything possible to make your Alaska trip both productive and enjoyable.

Warm regards.

Sincerely,

MIKE GRAVEL.

U.S. SENATE,
Washington, D.C., August 23, 1976.

Hon. JAMES ABOUREZK,
Chairman, Indian Affairs Subcommittee, Senate Interior Committee, Washington, D.C.

DEAR JIM: I was pleased to receive your letter of August 12, announcing the September 2 and 3 hearings of the Indian Affairs Sub-Committee. As you know, the issues surrounding the statutory definition of "tribe" in Alaska have been of particular concern to me for some time. The decision to hold hearings in Alaska is greatly appreciated.

I accept your invitation to participate in the proceedings. Rest assured that my office stands ready to provide assistance to the Sub-Committee in this matter.

Please feel free to contact Kris Patterson of my staff for any assistance the Sub-Committee may require.

Again, my thanks and appreciation for your consideration of the problems in Alaska regarding the definition of "tribe".

Best regards.

Sincerely,

MIKE GRAVEL.

U.S. SENATE,
Washington, D.C., September 22, 1976.

Hon. JAMES ABOUREZK,
Dirksen Senate Office Building,
Washington, D.C.

DEAR JIM: During the recent hearings held in Alaska by the Indian Affairs Subcommittee of the Senate Interior Committee, I mentioned to Mr. Clarence Antioquia, Bureau of Indian Affairs Alaska Area Director, that I would be forwarding additional questions to him.

Enclosed, for inclusion into the hearing record, are the questions I have posed to Mr. Antioquia. When response is received, I will forward a copy, also for inclusion in the record.

[Responses were not received in time to be included in the record.]

Warm regards.

Sincerely,

MIKE GRAVEL.

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C., September 22, 1976.

CLARENCE ANTIOQUIA,
Director, Juneau Area Office,
Bureau of Indian Affairs, Juneau, Alaska

DEAR CLAY: As you recall, during the recent hearings in Alaska held by the Indian Affairs Subcommittee of the Senate Interior Committee, I mentioned that I would be submitting further questions to you in writing. After careful review of the testimony presented at the hearings, the following matters require some clarification.

Concerning the matter of village resolutions, is it BIA's policy to require village resolutions for *each* contract and renewal of contract, or is it required only initially in order to give Regional organizations across-the-board contracting endorsement from the villages?

As you know, the Indian Finance Act defines eligibility in terms of "reservation" or "non-reservation" residence. What is BIA's policy regarding granting of loans under this Act in Alaska? Who is eligible? What areas of Alaska are excluded from benefits under this Act because the area has been determined to be "non-reservation"?

During the course of the hearings, several witnesses testified that technical assistance requests to the Bureau had been denied. Please provide the record of requests for technical assistance from the Area Office, along with the type of action the Bureau has taken regarding those requests. If technical assistance has not been forthcoming to the Native organizations which have requested such assistance, please provide further information.

In your testimony, you mentioned that many BIA contracts with Native organizations were commenced prior to passage of Public Law 93-638 and were therefore subject to Federal Contracting laws which do not necessarily account for the unique situation in Alaska. Since passage of 638, what measures have been taken by the Area office to ensure that contracting procedures more adequately meet the mandates of the Self-Determination Act?

I note, within your written testimony, you stated that "village tribes need to know the significance of their new tribal status" (under 638), and the implication was that the responsibility for informing villages would be that of Native organizations who wished to contract for village services. My question is this: Is it indeed the responsibility of Native contracting organizations to inform villages of the particulars of Public Law 93-638, or is it the responsibility of the Bureau of Indian Affairs—perhaps through the medium of statewide of regional workshops?

Finally, several questions have been raised regarding the Juneau Area office budget. Please provide a copy of the budget, with separate breakdowns for program and administrative costs, as this will be helpful in reviewing many of the issues raised during the hearings.

Your early attention to these matters is greatly appreciated.

Sincerely,

MIKE GRAVEL.

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C., December 17, 1975.

JOHN HEFFLE, Sr.,
President, Association of Interior Eskimos,
Fairbanks, Alaska.

DEAR JOHN: Thank you for your kind letter of December 10th, relative to various recent complaints directed against B.I.A. operations in Alaska.

I am very happy to learn that an equitable solution has been agreed upon.

Please do not hesitate to contact me again if I can be of additional assistance to you in any way.

With best wishes,

Cordially,

TED STEVENS,
U.S. Senator.

ASSOCIATION OF INTERIOR ESKIMOS,
FAIRBANKS, ALASKA, *December 10, 1975.*

Senator MIKE GRAVEL,
Dirksen Building,
Washington, D.C.

DEAR SENATOR GRAVEL: This letter is offered as a sincere apology that if in any manner I inadvertently caused you, your office, or staff any embarrassment by not following up on my complaints against the B.I.A. after your interceding in our behalf.

The issue had not been pursued as I had verbal commitments by B.I.A. Representatives here in Fairbanks Area office, and Washington. I was taught by my parents that a man is only as good as his word, and if you give yours, and your hand in good faith, do not betray this trust.

I had assumed, to my chagrin, that this is not the case with the B.I.A. and its officials. It is my feeling that people of your stature and official capacity should not be subjected to anything detrimental to you as our Congressional Representative.

Again, my sincere apology.

Respectfully,

JOHN L. HEFFLE, Sr.,
President.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., March 22, 1976.

JOHN L. HEFFLE, Sr.,
President, Association of Interior Eskimos,
Fairbanks, Alaska.

DEAR MR. HEFFLE: Thank you for your letter of February 16, 1976, concerning Bureau of Indian Affairs Commissioner Morris Thompson's memorandum of January 19, 1976, regarding the status of reservations in Alaska.

The Commissioner's memorandum was not intended to concern and does not concern any services provided by the Bureau other than those provided under the Indian Financing Act. Services previously provided by the Bureau under other programs will continue to be provided as in the past.

The Indian Financing Act, on the other hand, specifically definies reservation areas in Alaska and provided for grant eligibility in terms of those reservations.

The purpose is to promote and assist in the economic development of Indian reservations. Reservations are defined in Section 3(d) of the Financing Act to include "land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act." The Act defines as eligible tribes ". . . Native villages and Native groups (including corporatoins organized by Kenai, Juneau, Sitka and Kodiak) as defined in the Alaska Native Claims Settlement Act, which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs." Therefore, municipalities located in an area not included in land held by one of the above incorporated groups would not be considered as a reservation.

Although a municipality is not located in a reservation area this does not necessarily prelude funding of an enterprise to be located in that city. The crucial tests for determining if an economic enterprise which is not located on a reservation is eligible under the Indian Financing Act is whether it makes or will make an economic contribution to a nearby reservation by providing employment to tribal members residing thereon or by expending a portion of its income for materials or services on the reservation. Of course, special factors, such as distance between neighboring communities, relevant to Alaska can be taken into account in making this determination.

We hope this explains the Bureau's action regarding the Indian Financing Act programs. We believe that the regulations for implementing the Act are within the meaning and intent of the Act and the Congress. If we can be of further assistance please let us know.

Sincerely yours,

KENT FRIZZELL,
Under Secretary of the Interior.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
Fairbanks, Alaska, December 29, 1975.

JOHN HEFFLE,
President, Association of Interior Eskimos,
Fairbanks, Alaska

DEAR MR. HEFFLE: On behalf of Commissioner Thompson and Juneau Area Director Antioquia, I wish to thank you for the opportunity to meet with you and a few members of your board. I was personally disappointed that all of your board members were not in attendance. However, I am also aware that those Eskimo people in Fairbanks who belong to your association are quite willing to have you as their spokesman.

From the meeting on December 13, the two major points of agreement were: (1) The Bureau of Indian Affairs will ask for a legal determination on your status as a tribal governing body. (2) The Bureau of Indian Affairs will provide information on the Tribal Government Development Program.

If there are other points that you feel I have overlooked, please bring them to my attention in writing. Once again, thank you for the opportunity to meet.

Sincerely yours,

FREDERICK P. BAKER,
Superintendent.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
Juneau, Alaska, January 2, 1976.

Alaska Legal Services Corp.,
Fairbanks, Alaska
(Attention: William B. Schendel).

DEAR MR. SCHENDEL: This is in response to your December 23, 1975 inquiry on behalf of your client the Association of Interior Eskimos.

The petition you have reference to was received via the Fairbanks Agency without benefit of a cover letter and thus we were not aware of its attachment to Public Law 93-638. The request was to forward the petition to the Commissioner's office which we have done.

As you are aware this agency does not "declare" entities to be tribes but must conform to statute and regulations. We interpret "tribe" as defined in Public

Law 93-638 to restrict tribal status to—"any Alaska Native village or regional or village corporations as defined in or established pursuant to the Alaska Native Claims Settlement Act which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;" this is verbatum from the Act and is now a part of the regulations. The definition of tribe in Public Law 93-638 would seem to exclude the Association of Interior Eskimos as a tribe.

Your question relating to an application for Tribal Government Development Program funds was never received in the Juneau Area Office; each application forwarded to this office was sent to Washington with our recommendation. We have no record of the AIE's application. With regard to funds for Fiscal year 77 we have been advised that provisions of Public Law 93-638 have replaced TGDP.

I know that these responses do not satisfy your client but I must emphasize that we have no authority to declare political or other entities as tribes.

As a final statement we would remind you that if tribal status should be attained by the Association of Interior Eskimos this office would be obliged to request your firm to submit a contract for approval.

We thank you for your interest.

Sincerely yours,

CLARENCE ANTIOQUIA,
Area Director.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
Juneau, Alaska, January 2, 1976.

JOHN HEFFLE,
President, Association of Interior Eskimos,
College, Alaska.

DEAR MR. HEFFLE: We have forwarded your petition to the Commissioner as you have requested.

As you know there are statutes under which tribes are recognized and/or defined.

Based on these statutes services are rendered or commitments honored.

Although your petition requests that your organization be the "Tribal governing body" we are having difficulty as to what statutory or tribal authority to cite in honoring your request.

We shall keep your petition on file and keep you apprised of any development that affect your organization.

Sincerely yours,

CLARENCE ANTIOQUIA,
Area Director.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
Fairbanks, Alaska, January 26, 1976.

JOHN HEFFLE,
President, Association of Interior Eskimos,
Fairbanks, Alaska.

DEAR MR. HEFFLE: Enclosed is a copy of a resolution that is being used by a native organization in the Bethel Agency to seek a "technical assistance grant". You might wish to adopt it for your own purposes.

I also call your attention once again to read "Subpart B—Application Process" pages 51288 to 51293 in Part 11 *Federal Register* "Indian Self-Determination and Education Assistance Act". This part is quite self-explanatory regarding the application process.

Before an application to contract can be considered it should include resolutions from the tribal governing bodies when more than one tribe is involved. For the Arctic Slope Region, the information regarding tribal governing bodies is enclosed.

If you have any further questions, do not hesitate to ask.

Sincerely yours,

FREDERICK P. BAKER,
Superintendent.

RESOLUTION OF THE TRIBAL GOVERNING BODY OF —— ALASKA

Whereas the tribal governing body of the Native village of —— Alaska is the (I.R.A.) traditional council and is duly authorized to make commitments for all the members of the village and,

Whereas in order to better understand what Public Law 93–638 is all about and how each village can make best use of its provision it is very necessary that each of the 57 villages of AVCP region be fully informed on this important law, and,

Whereas there is not enough money in our village, or all 57 villages together, to pay for planning, training, and evaluation purposes necessary to look into and get ready for contracting programs and services from the BIA, now,

Therefore be it resolved by the council of Native village of —— that on behalf of their village leadership of —— members that hereby apply for a grant under Part 2 72-grants—of title 25 of the Code of Federal Regulations, for the purpose of using it to help us determine our interest in contracting and otherwise preparing ourselves to contract should we decide to do so, and,

Be it further resolved that:

A. The project name will be Yupik self information and implementation of Public Law 93–638.

B. Federal funding needed is —— (the way you get that —— is $50 times population). (Total Native population plus $50 per village.)

C. Our total population of —— will benefit.

D. The length of the project will not exceed —— weeks.

E. The project will begin on —— 1976 (or upon receipt of funds).

F. Project budget category are travel, per diem, conference room rental, material reproduction and temporary salary.

G. The application is submitted to the Superintendent, Bethel Agency, Box 347, Bethel, Alaska 99559 on —— 1976.

Be it further resolved that Yupiktak Bista, Inc. is hereby authorized to receive and administer our grant for the above purposes, including research of effects and alternatives of Public Law 93–638, preparation of presentation, and travel to our village to explain and discuss these and related things.

CERTIFICATION

I the undersigned swear and affirm that I am duly appointed Secretary of the village council of ——; that the council is duly elected by the people of the Native village of ——; that the council is composed of —— members, of whom —— constitute a quorum; that —— members of the council were present at the duly convened meeting held this —— day of —— 1976 and that the foregoing resolution was fully discussed and duly (adopted) rejected at such meeting by —— (yes) votes and —— (no) votes.

(Signed) ——, ——.
Secretary, Village Council.

ATTEST:

——, ——,
President, Village Council.

AMERICAN INDIAN POLICY REVIEW COMMISSION,
CONGRESS OF THE UNITED STATES,
Washington, D.C., June 17, 1976.

Commissioner JAMES ABOUREZK,
Chairman, American Indian Policy Review Commission, House Office Building Annex No. 2, Washington, D.C.

DEAR MR. CHAIRMAN: The field work scheduled for completion by the various American Indian Policy Review Commission Task Forces has been largely concluded. Several Task Forces visited Alaska recently. I had the opportunity to assist in arranging for their visits, to act as chairman at several hearings that they held, and to visit with the members prior to and subsequent to the hearings.

Regardless of whatever prior knowledge the members of the Task Forces had before experience gained from Alaska Field hearings, there is no question that the unique characteristics of Native Alaska became more apparent to them as a result.

There is a question as to whether the portion of each Task Force report pertaining to Alaska should be incorporated in the general body of the report, or whether the unique characteristics are such as to warrant separate reports on Alaska. If the latter is indicated, I would anticipate a separate Alaska section appended to the main report which would contain all information gleaned from research and field hearings in this state.

The State of Alaska is now witnessing the largest transfer of land ever to be made by the United States to Native Americans. In excess of forty million acres will be conveyed to the Alaska Natives. In addition to owning a large proportion of the total amount of land owned by Native Americans, the Alaska Natives will be undertaking land management responsibilities of unparalleled magnitude. The magnitude of the resources of the land cannot be estimated—but I know that they will be impressively large.

The Alaska Native Claims Settlement Act prescribes business-for-profit corporations as the vehicles for implementation of the settlement, and contemplates reduced but still vital functions being performed by various federal executive agencies. There are unique aspects to implementation of the Settlement Act attributable to the corporate format that warrant analysis in depth. The Alaska Natives sought to make quite clear during their lobbying of the Claims Settlement Act that it was not intended to be regarded as termination legislation. Nevertheless, the views of some Washington, D.C. executive departments is that the Act is termination legislation. The question is fundamental; it must be addressed.

As you also know, there will be important decisions made in the near future regarding the ultimate use of some eighty million acres of land under Section 17(d)2 of ANCSA. These decisions will have a systemic and yet undetermined impact upon the entire State of Alaska. The potential affect upon the life style of the Alaska Native communities is a matter for conjecture.

For these and other reasons, I respectfully request of the American Indian Policy Review Commission that a full Commission hearing be held in the State of Alaska. Current events cause the scope of activities in Alaska to loom large in the picture of Native American life. I would suggest a hearing in Juneau, the capital city, to be recessed and reconvened in Anchorage. Resources Development and Protection would, along with other related topics, be a logical focus for such hearings. I would suggest dates prior to July 15 or after August 3, 1976. Such hearings would prove to be of inestimable benefit to the Commission and the Alaska Natives and would enhance the perception of the Commission regarding the Alaska Natives who live in the largest state in the Union.

Sincerely,

JOHN BORBRIDGE, Jr.,
Commissioner,
American Indian Policy Review Commission.

[Memorandum]

To: Board of Directors, AFN, Inc.
From: John Vacek on behalf of Gordon Jackson, Executive Vice President, Human Resources.
Date: June 26, 1975.
Subject: Report on problems in defining "Indian tribe" for the purposes of Public Law 93-638, "Indian Self-Determination and Education Assistance Act".

BACKGROUND

At the Indian consultation meetings held in Anchorage on June 9–13 to discuss the proposed regulations to Public Law 93–638 the predominate problem was that of relating the definition of Indian tribe to the situation in Alaska. The Act was written essentially for the reservation system in the lower 48 and neither the Act nor the regulations as they now stand are well adapted for use in Alaska. Public Law 93–638 is an Act allowing the contracting of BIA and IHS services by Indian tribes if they so desire. Determination of which organizations are "Indian tribes" is thus vital to the question of the eligibility to contract under the Act.

PROBLEM

The problem is not really one of which organizations will be able to do the actual contracting. Rather, it is a problem of which organization is eligible to make the original contract request. Essentially it is a question of who has the original contracting authority.

DEFINITIONS

The Act and the regulations as they are written at the present define "Indian tribe" as follows:

"Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

This definition included the profit making corporations but makes no mention of the non-profit bodies. Also excluded are Native groups that may not qualify as a village or associations that may be formed in the future for social service purposes. Questions were raised at the meetings on the effect of the inclusion of the profit making corporations in the definition of Indian tribe when the restrictions on stock transfer are removed in 1991.

This is certainly not to say that the non-profit bodies *can't* contract under the Act. P.L. 93–638 allows contracting by "tribal organizations". A "tribal organization" is defined as:

"The recognized governing body of any Indian tribe; any legally established organization of Indian which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such an organization and which included the maximum participation of Indians in all phases of its activities."

Native non-profit corporations and associations may obviously fall within this definition. The problem arises, however, because even though a tribal organization may contract, it may not initiate a contract request. The initial request for a contract must come from the tribe, not the tribal organization.

EXPLANATION

As the Act now stands a regional non-profit body cannot request a contract from BIA, even for services to be administered on a regional basis. Instead the request must come from the "tribes" defined in the Act. What this means is that a regional or statewide non-profit corporation body must submit its contract proposal to or through every "village or regional or village corporation" for approval. This may possibly give a single village the power to block a regional contract proposal. The problem is further complicated by the fact that the definition of "Indian tribes" in P.L. 93–638 as it applies to Alaska is not limited to only villages or regional or village corporations. For example, any Native organization incorporated under the Indian Reorganization Act is probably eligible for the benefits of P.L. 93–638 as an Indian tribe.

The Federal Government is aware of the possible difficulties resulting from the operation of Public Law 93–638 in Alaska. Accordingly, Ralph Reeser, the legislative liaison for the BIA, has stated that the Government is open to suggestions to amend both the Act and the regulations to clarify the Act as it applies to Alaska Natives. BIA is working under a strict timetable in writing the regulations. They plan to submit the regulations and any amendments to the Act to the Congressional committees by August 4. This means that in order to go through all the clearance procedures with the Department, the regulations and amendments must be in final form by about the 1st of July. Even though amendments will be submitted this summer they will probably not be acted on in Congress until next March. The Act will go into effect on November 4, 1975 and Alaska Natives will have to live with the Act as it is written until it can be amended some time next year.

POSSIBLE SOLUTIONS

The time table is strict but several options may be open.

1. It is possible to submit suggestions for amendments before July 1 so that they may accompany the BIA legislative packet;
2. It is also possible to attempt to get adequate interim regulations now and then submit a definition when the hearings on the amendments come up. Opinions

on the regulations are open all the way to October 4, but to receive full consideration they should be submitted by the end of this month;

3. Another possibility would be to initiate amendatory legislation through Alaska's congressmen.

DRAFT AMENDMENTS

Several proposals during the meetings as suggested amendments to Sections 4(b) and 4(c) of Public Law 93-638. In the order they came up, these were:

1. Proposed by Ralph Reeser of BIA:

4(b) Indian tribe means any Indian, tribe, band, nation, pueblo, colony, rancheria, or other organized groups which is recognized as eligible for the special programs and services provided to Indians because of their status as Indians by the Secretary of the Interior through the Bureau of Indian Affairs. The term included any such tribe in the State of Oklahoma and any Native village or Native group as defined in the Alaska Native Claims Settlement Act (85 Stat. 688), including any located on the reserves referred to in Section 19(b) of such Act.

4(c) Tribal organization means (1) the recognized governing body of any Indian tribe; (2) any legally established organization of Indians which is controlled, sanctioned, or chartered by one or more of such governing bodies on which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities; (3) any Native association identified in Section 7(a) of the Alaska Native Claims Settlement; (4) any Regional Corporation or Village Corporation as defined in such Act, but not after the stock in any such corporation becomes negotiable as provided in such Act; (5) a local committee established or designated pursuant to Section 5(a) of the Act of April 16, 1934 (48 Stat. 596) as amended; or (6) an Indian owned economic enterprise as defined in the Indian Financing Act of 1974 (88 Stat. 77).

2. Submitted by Garrett Aukon of Elim:

4(b) "Indian tribe" means any Indian, tribe, band, nation, or other organized groups, and they must show proof that they are democratically elected (by the adult members of the Indian community to be served), or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, including any Alaska Native non-profit corporation of the regional corporations or of village corporations as defined pursuant to the Alaska Native Claims Settlement Act, including any located on the reserves referred to in Section 19(b) of such Act.

3. Proposed by Gordon Jackson of the Alaska Federation of Natives:

4(b) "Indian tribe" means any Indian tribe, band, nation, pueblo, colony, rancheria, or other organized groups or community which is recognized as eligible for the special programs and services provided to Indians because of their status as Indians by the Secretary of the Interior through the Bureau of Indian Affairs. The term includes any such tribe in the State of Oklahoma and in the State of Alaska.

4. Robert Rude of CINA proposed including within the definition of "Indian tribe" regional and village non-profit organizations (including those located on 19(b) reserves) and had a further provision that regional contracting bodies would respect the regional boundaries as defined pursuant to ANCSA.

As is probably apparent, none of these definitions is wholly satisfactory. There are, however, certain issues that each proposal attempts to reach. A listing of issues that the definitions are trying to resolve may be in order.

1. Should the profit-making corporations be included as a tribe?
2. Should the non-profits be specifically included?
3. Should there be any attempt to limit the power to the villages to control contracting?
4. Should the regional power be so limited?
5. Should there be a provision forbidding contracting in another region?
6. Should the definition attempt to establish any kind of exclusive contracting power?
7. Should the definitions or the regulations operate to give preference in contracting to certain bodies?

STAFF RECOMMENDATIONS

It is suggested that a recommendation be made to BIA as early as possible to amend Section 4(b) and 4(c) as follows:

4(b) Indian tribe means any Indian, band, nation, pueblo, colony, rancheria, or other organized group or community which is recognized as eligible for the special programs and services provided to Indians because of their status as Indians by the Secretary of the Interior through the Bureau of Indian Affairs. The term includes any such tribe in the State of Oklahoma. For the purposes of this Act in Alaska "Indian tribe" means any Alaska Native village, or regional, village, or statewide non-profit corporation, including the reserves referred to in Section 19(b) of the Alaska Native Claims Settlement Act.

4(c) Tribal organization definition unchanged from original Act. (exc. possible inclusion of Indian owned economic enterprise).

Regulation proposals:

1. That in Alaska any "tribe" shall have the power to delegate its contracting authority (all or part) to another tribe or tribal organization.

Note that this is more than an assignment of contract rights or subcontracts—it is a delegation of the authority to initiate and carry out the entire contract.

2. Possible boundary regulations?

This definition does a number of things:

1. Excludes the profit making corporations.
2. Specifically includes the non-profits.
3. Does not exclude the villages.
4. Includes reserves.
5. Leaves definition of "tribal organization" unchanged although it may be desirable to include "Indian owned economic enterprises" within this definition.

I would further regard a provision allowing at least limited delegatory powers as essential to the operation of the Act in Alaska Public Law 93-238 puts a tremendous amount of power in the hand of the village. But the villages simply do not have the capabilities at the present time to run some of the programs. Some of the contractable programs can be run only at the regional or statewide level. In order to simplify administration in such cases the village should have the power to grant all or part of its contracting authority to other tribal organizations. This is not a usurpation of authority. A grant of contracting authority by a village or region would be discretionary; village would only make such a grant if it wanted to.

Further considerations:

1. Should the definition of "tribal organization" include "Indian owned economic enterprise"?

2. Should there be provisions in the regulations that regional contracting bodies should respect the regional boundaries (i.e. not compete for contracts in other regions)?

[Memorandum]

To: Sam Kito, Jr., President and Gordon Jackson, EVP.
From: John Vacek.
Subject: Definition of Indian Tribe for the Purposes of Public Law 93-638.

At the recent meeting of the Board of Directors of AFN, INC. held January 8-9, 1976, the problem of definition of "Indian Tribe" again was brought up. The Board was presented a memorandum prepared by Emil Notti and Lee Gorsuch for the Alaska Native Foundation dealing with the definition of tribe and the tribal consent provisions of the Indian Self Determination and Education Assistance Act, Public Law 93-638. It is my opinion that the position presented in that memorandum, while possibly not entirely satisfactory to all parties, is the best solution that has been proposed.

Public Law 93-638 defines Indian tribe as "any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indian because of their status as Indians." The problem is immediately apparent: There are a multiplicity of "tribes" in the State of Alaska who may be eligible for contracting under the Act.

In addition, the Self Determination Act contains a tribal consent provision whereas services may benefit more than one tribe: ". . . in any case where a contract is let or a grant made to an organization to perform services benefiting more than one Indian tribe shall be a prerequisite to letting or making of such a contract or grant." The Act thus creates a large number of eligible "tribes" in Alaska, estimated in Mr. Gorsuch's memorandum at 465, and creates the potential for conflict in contract and grant administration. The majority of federal programs operating for the benefit of Alaska Natives function above the level of a single village operation. That is, it would be in most cases impracticable for a single village to contract much of the BIA or HEW programs in Alaska. Yet with the tribal consent provision of the Act, a single dissident village could veto a regional contract or grant.

Any solution to the problems created by the definitions section of the Self Determination Act should therefore accomplish two things: (1) a limitation on the number of "Indian tribes" eligible for contracts and grants under the Act; and, (2) a limitation on the veto power inherent in the tribal consent provision as it is written. The ANF memorandum proposes to limit "tribes" eligible for the purposes of 93-638 to one organization per village and one organization per region. It is my feeling that such a limitation is probably essential to the operation of the Act in Alaska. If Native contracting of Federal programs is to be a realistic proposition, there must be some method of limiting the number of possible contractors.

The ANF proposal suggests that the "village tribe" should be the traditional or IRA Council and the "regional tribe" should be the regional non-profit association. At an AFN, Inc. Board of Directors meeting during the summer, concern was expressed that exclusion of the regional corporations could be construed as an erosive step toward a termination policy for Alaska Natives. While this is a valid concern, it is not an insurmountable obstacle in the definition of "Indian tribe." One possible solution would be to place in the legislative history of any amendment to Public Law 93-638 the intent that the exclusion of regional corporations from the definition of tribe is to facilitate contracting and is in no way to be construed as a slow erosion toward termination. The regional corporations are not the organizations best suited to contract the health and social services programs run by federal agencies in Alaska. The Native profit making corporations still have the opportunity to contract for potentially profit making activities under Section 7(b) of Public Law 93-638. If amendments are to be made to Public Law 93-638, it may be an opportunity to further clarify 7(b) to avoid some expense in possible future litigation similar to the Ahtna suit against Interior.

The ANF memorandum suggests limiting the application of the tribal consent provision in Alaska to those instances where: (1) inter-regional contracts are involved; (2) intra-regional contracts are involved in which the integrity of programs and services are altered; and (3) individual villages can feasibly contract for programs at the village level. These limitations make a good deal of sense. In most instances federal programs are designed to operate at something higher than a single village level. The individual village should not be able to block a contract when it cannot, itself, feasibly contract the operation. On the other hand, where the village is able to demonstrate an ability to contract, it would seem to be the essence of self-determination to allow contracting at the local level. The application of tribal consent to instances where reprogramming of funds and services is designed primarily to protect beneficiaries from losing benefits against their will. It is conceivable that the contractor may contemplate reprograming funds for entirely different purposes, in which case consent would seem desirable.

The above limitations, should they be applied, will of course have to be implemented in some manner. They are rather general in language, but will have to be specific when applied to real cases. The implementing regulations would thus be critical to the smooth operation of 93-638 in Alaska. For example, the regulations would have to define exactly how a village demonstrates contracting capability. They would also have to refine the point at which reprogramming or alteration of programs occurs so that the tribal consent provision becomes operable.

In conclusion, it is my feeling that, in order for the Indian Self-Determination and Education Assistance Act to operate in Alaska, steps have to be taken to facilitate contracting under the Act. The memorandum prepared by Mr. Notti and Mr. Gorsuch offers the simplest and the best solutions that I have seen. I would recommend that AFN, Inc. endorse the concepts embodied in that resolution.

[Memorandum]

To: Alaska Federation of Natives, board of directors.
From: Gordon Jackson, executive vice president.
Subject: Definition of "Indian Tribes"—Public Law 93-638.

On March 21, 1976, the Alaska Federation of Natives, Inc., Human Resources Committee convened a working session to discuss, once again, the definition of

"Indian Tribe" and the "Tribal Consent" provision in Public Law 93–638. It was the goal of the Committee to recommend some definitions that would insure the implementation of true self-determination in Alaska.

The Human Resources Committee has a number of problems with the current definitions in Public Law 93–638. Some of them include: First, the current definition of Indian Tribe leaves out the non-profit Native associations who are the current delivery system for services provided under Public Law 93–638. Second, under the current definition, it creates 465 tribes in Alaska. Third, the tribal consent provision and the creation of 465 tribes requires consent to any proposed contract of Federal programs under Public Law 93–638. Such a situation in Alaska could cripple any attempts to implement the Indian Self-Determination in Alaska.

As an example of what may happen, I belong to four tribes in Kake, Alaska under the current definition. Those tribes include the IRA Council, Tlingit and Haida, Kake Village Corporation, and SEALASKA Regional Corporation. Should Kake want to contract for services provided under Public Law 93–638, which tribe would contract? Should the Tlingit and Haida Central Council want to contract for services in the region under Public Law 93–638, it would require consent of all tribes in Southeast. Should one tribe not consent, it could feasibly veto the contract under the current definition (one dissident could feasibly have four chances in Southeast to veto regional, village, and state contracts). Should Alaska Federation of Natives want to contract, it would require the consent of 465 tribes in Alaska.

To insure the implementation of the Act in Alaska, the Human Resources Committee recommended an amendment to the act. Our recommendation via resolution is attached. We recommend a situation whereby there is one tribal entity recognized at the Native regional level and one at the Native village level. The recommended amendments are underlined.

Our first amendment still includes language that Alaska tribes be limited to twelve (12) Native regional associations listed in Sec. 7(a) of Public Law 92–203 or their successor organizations. Successor organizations meaning the "non-profit native associations" or entities created following the passage of Public Law 92–203. Such explanation should accompany the amendment to insure the intent is clear and without question.

Our second amendment requires tribal consent in Alaska only when there is a contract being let on behalf of two or more regional tribes (regional corporations). For instance, village tribes consenting to one regional tribe to contract for the operation of a Bureau of Indian Affairs agency. Should the village tribe indicate and show they can operate the services themselves (such as Bethel, Kotzebue, et al.) then they can. The amendment also recommends that for statewide contracting in Alaska, resolutions from regional tribes consenting to the contract will be the only prerequisite. This is aimed to the Alaska Federation of Natives so they don't have to go through the lengthy process of securing resolutions from all villages and regions to contract for services determined to be statewide in nature such as technical assistance.

Our third amendment requests a change in their definition of reservation and further recommends it be used in other legislation such as the Indian Financing Act of 1974. The Financing Act, under the current definition, excludes urban communities. The recommended definition would insure services are delivered to all the Native people of Alaska.

The working session consisting of Kawerak, Yupiktak Bista, Kodiak Area Native Association, and Cook Inlet Native Association recommends "do pass" on the attached resolution. We feel the resolution will insure the implementation of self-determination in Alaska. The current definition will seriously cripple the Act.

A PROPOSED RESOLUTION PERTAINING TO THE INDIAN SELF-DETERMINATION ACT

Whereas, Public Law 93–638, the Indian Self-Determination and Education Assistance Act, defines the "tribes" and "tribal authorities" it will recognize for the purposes of the Act; and,

Whereas, such tribes and tribal authorities are required to consent to any proposed contract of federal programs under the Act which effect them; and,

Whereas, the present definition of "tribe" contained in the Act, as it applies to Alaska, recognizes several entities comprised of similar membership; and,

Whereas, it is the desire of the Alaska Federation of Natives and the Alaska Federation of Natives, Human Resources Committee that one tribal entity be recognized at the Native regional level and one at each Native village level; and, Whereas, it is the regional non-profit corporations and villages recognized by the BIA as eligible for their program services (as contained in their publication, "American Indians and Their Federal Relationship") that are most directly charged with the responsibility of securing and enhancing the social and physical well-being of its constituents which most federal programs are designed to enhance: Now, therefore, be it

Resolved, That the definition of "tribe" contained in Public Law 93-638, Section 4(b), be amended to read as follows:

Indian tribe means any Indian tribe, band, nation or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians and Alaska Natives because of their status as Indians and Alaska Natives; *provided that such definition, as it applies to Alaska tribes shall be limited to the twelve Native Regional Associations listed in Section 7(a) of the Alaska Native Claims Settlement Act (P.L. 92–203) or their successor organizations (meaning non-profit associations) and all Alaska Native Villages recognized as eligible for the special programs and services provided by the United States to Indians and Alaska Natives because of their status as Indians and Alaska Natives;* and be it further

Resolved, That the tribal consent provision contained in Public Law 93–638, Section 4(c), be amended to read as follows:

Tribal organization means that recognized governing body of any Indian tribe; and legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities; provided, that in any case where a contract is let or a grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to letting or making of such contract or grant; *except that in Alaska such provision will only apply in instances affecting two or more regional tribes unless a village tribe can show the services in question could be provided by the village tribe itself, in which case the above exception does not apply. (For statewide contracting in Alaska, resolutions from regional tribes will be the only prerequisite.)* and be it further

Resolved, That a standard definition of reservation be employed in the regulations promulgated pursuant to P.L. 93–638 (*and all other Acts as they apply to Alaska Natives*), and that such definition be:

Indian reservation means all Indian reservations, former Indian reservations in Oklahoma, and lands occupied formerly by other Indian groups and by Alaska Native communities including all or any part of the twelve Native regions in Alaska established pursuant to the Alaska Native Claims Settlement Act by the Secretary, or his designee. And finally, be it further

Resolved, That the Executive Vice President of the Alaska Federation of Natives, Inc., Human Resources Committee be authorized and directed to implement this resolution by the necessary legislative and administrative relief.

ALASKA FEDERATION OF NATIVES, INC.,
Anchorage, Alaska, June 23, 1976.

Commissioner JAMES ABOUREZK,
Chairman, American Indian Policy Review Commission, House Office Building Annex No. 2, Washington, D.C.

DEAR MR. CHAIRMAN: The Native Alaskans of the State of Alaska are now witnessing the largest transfer of land ever to be made by the United States to Native Americans. In excess of forty million acres will be conveyed to the Alaskan Natives.

This places the Alaskan Native in a position of land ownership unparalleled in Native American history. Section 17(d) 2 of the Alaska Native Claims Settlement Act deals with the decisions for usage of some eight million acres of land. This section must be dealt with in the near future. The decisions reached on (d) 2 lands will affect the future of all Alaskans, but will have severe impact on Rural Alaskan Native communities.

With the approach of OCS development, the Alaskan Native is subject to further impact not only upon lands, but subsistence living and Native Culture.

The Alaskan Native at this time is experiencing many opposing forces in the everyday lifestyle. Industrial and Petrochemical development are forcing development of previously natural and undisturbed Native lands. The Alaskan Native is forced to accept this development, while at the same time trying to preserve his way of life, subsistence and culture. This is no easy task, and affects Regional, Village and Family decisions on a daily basis.

There are many unique characteristics in Alaska, which cannot be realized or dealt with in any other American Native Area. For these reasons we request the American Indian Policy Review Commission hold a full Commission hearing in the State of Alaska.

Current events in Alaska do not enable us to wait on decisions which will affect not only Alaska Natives, but set precedent for all Natives Americans.

I respectfully request that a Full Hearing of the Indian Policy Review Commission be held in the State of Alaska. Alaska is the largest state in the Union and it is time for the voice of the Alaskan Native to be heard.

Sincerely,

ALASKA FEDERATION OF NATIVES, INC.,
SAM KITO, Jr., *President.*

ASSOCIATION OF INTERIOR ESKIMOS,
Fairbanks, Alaska, August 9, 1976.

DEAR SENATOR: Please excuse the pen but our typewriter is not working and presently no funds for repair.

I am writing to you in regards to the problems that our tribe and village are having with the B.I.A. and the Native land claims in sincere hope that you and your committee can help us.

I would appreciate it if I could see you and speak to you in person about our problems. I will be in D.C. from the 1st of Sept. to the 7th with the gold medal winners of the World Eskimos Indian Olympics. Perhaps I can call at this time.

We have been trying unsuccessfully to have our tribe and village recognized under the Claims Act, but so far have only met with unconcern and resistance from the Dept. of Interior Sec. and the Commission of Indian Affairs.

Mr. Wally Craig, former Superintendent of the Fairbanks Agency BIA told us in 1971 to form a tribal organization to help our village and people. This was done, the 1st meeting was at my house on or about 5 Dec. 1971 and the final papers (Art. of Inc. and by-laws) were submitted and approved by tribal operations and sent to Juneau, Alaska where we received our corporate seal and recognition from the State of Alaska.

Enclosed are pieces of correspondence (copies) from our tribal records to show or attempt to show you that we are a tribe and have a village and council, we have lived in the traditional way and governed by a traditional council.

Why were we left out as a village in the large claims? We were here before Fairbanks grew out to incircle us. We are Indian trust land as Native allotments and the BIA tells us what we can or can't do with our lands as its restricted status. We are not taxed nor assessed by the borough, state nor city because of our status.

We asked in 1971, 72, 73, 74, 75, and now in 76, why are we not getting money and land from the Land Claims. Mr. Thompson said we should have made a written request before Dec. 1971, but we asked verbally before the date which is the normal way our tribe and village does business. Verbally and with a hand put forth.

No one said we should file our papers. The BIA should have told us this long ago. Morris Thompson said he'd do something when he was area director. He told Clay Antioquia to help -------- the (Thompson) made commisions but nothing ever been done.

Why did Morris Thompson wait until Dec. 1975 to every say about formal applications, why didn't we have a chance as when Congress made a ---- region for outside Native, and extended enrollment for those who didn't sign up the 1st go around. Why discriminate against us and maybe other villages.

Why should we have to be run as regional Corps who are only Native Bureaucracies. We have had this type of treatment by the BIA and don't need more. We are smart enough to take care of ourselves, because we have been doing it before the land claims.

We can't be a group because we are Eskimos in Indian Land. We are told that we should go back to our ancestors.

We tried to get help and funding for a tribal office from a congressional delegation but got only token acknowledgement.

We had a chance to make money and be self reliant but could get money from BIA. By trying to contract we are in debt $15,000 and no way to pay it.

Mr. Thompson said twice that he felt, and thought he and Clay were havng a conspiracy to prevent our tribe and village from getting anywhere. I think maybe he's right so he must have a guilty conscience to say that.

We need justice and equal treatment. When we picketed the BIA and threatened legal action we were told that this wasn't needed so we gave it up, only to be lied to again and again.

Why do you people make laws to govern us and to be helpful and when we tell you what we think is the best for us you don't listen.

You do not do this for Black nor Spanish-American.

We are treated like strangers and trespassers, 2nd class citizens in our own land.

The BIA and AMHS said years ago, before the land claims that all Natives of Alaska were Indians for administrative purposes. Now it's just the opposite.

Public Law 93-638 said tribes are groups, individuals, organization, etc. including Alaskan villages and village and regional corps as with land claims.

This is discriminatory as it allows Indians in the Zone ---- to contract etc. with relative ease and extremely restrictive to the Alaskan Natives. Are we not equal to the Indian outside?

We only wish to better ourselves and felt the BIA would help not hinder.

Even as loans and Indian finance help we can't get money because of reservation status, yet in 93-638 a reservation is Indian Trust land, which is our village.

Do you make a law with a meaning and benefit the Native people or the BIA and this Solictor?

When I called Washington, D.C. the Solictor said I don't understand English. That I have been told that we are not a tribe, but they have shown it to me or my people in black and white.

Also ------ reports by tribal member resolutions and letters have been ignored by the Secretary of Interior and the Commissioner, in fact ones hand carried to D.C. in May 1975 were not ever acknowledged nor answered in fact Mr. Thompson told me and my council that he doesn't recall what he did with them (File 13??)

The BIA, the Department of Interior set up our village here over 35 years ago now suddenly we are being buried—

Mr. Thompson said I should be commended for being such a dedicated leader. I ask if we are not a tribe when do I lead. Letter to dear tribal leader, meeting I attend as village representative and yet as soon as we ask for money its "Who are you!!" Records have been lost and thrown out by BIA.

We feel that all that is happening to us is to prevent our becoming self supporting and being recognized as a tribe and village would put a kink in ------ money and land where Mr. Thompson is a stockholder also in DWH have numerous Indian friends and relatives working in these—plus FWA and TCC.

If I have to beg for my people then I beg. Please help us and right the wrongs that have been put upon us. We are Gods people and equal to all others in this land of ours.

May the spirits guide you in your decision and give you long life.

Sincerely and respectfully yours,

JOHN L. HEFFLE, Sr.,
Tribal Chairman and Spokesman.

TRIBAL STATUS

1. The interior Eskimo Tribe is composed of Eskimos removed from there ancestrial homes living in the Interior of Alaska who have joined together as a seperate and unique Eskimo tribe.

2. Precedent has already been established by the BIA in recognizing members of the same tribal group who are seperated by geographical locations, as seperate tribe bodies. I.E. Sioux Tribe, Cheyenne, Mescalro Apaches.

3. The Indian Self-Determination Act P.L. 93-638 defines tribe as any "Indian tribe, band. . . ." etc. Bands are defined by Websters Dictionary as "a group of people united by a common purpose" which qualifies the Association of Interior Eskimos as a tribe.

4. Futhermore the ANLCSA defines Native Village as "pay tribe, band, clan, group, Village, Community, or Association in Alaska Listed in Sec. 11 & 16 of

this act, *or which meets the requirements of this act. . .*" which qualifies Eskimo Village as a tribe.

5. The Indian Self Determination Act also defines tribe as any "Indian tribe. . . . *Including any* Alaska Native Village, regional corporation or village corporation *as defined in or* established pursuant to the ANLSCA." (85 Stat. 88) which includes Eskimo village.

6. The same definition of tribe includes the further definition of tribe as ". . . any Alaska Native Village . . . which is Federally recognized as eligible by the United States Government through the Secretary for the special programs and services *provided by the Secretary to Indians because of their status as Indians,*" which further qualifies Eskimo Village as a tribe because of village projects provided by the BIA and the Indian Health Service because of their status as an Indian Village.

7. Under the ANLCSA and P.L. 93-638 each and every native village in Alaska is recognized as a seperate tribe, whose only difference from members of the same tribe is geographic location.

8. Tribal governing body is defined in Public Law 93-638 in 271.32 (p) "Tribal governing body" means the recognized governing body of any Indian tribe." The Association of Interior Eskimos have been recognized as such by the Eskimo Village Council in Resolution 72-2 DTD 14 Jan. 1976.

9. Public Law 93-638 also proved that the tribal organization may also be the tribal governing body. Tribal organization is defined in P.L. 93-678 271.2 (r) as ". . . The recognized governing body of any Indian tribe of *or any legally established organization of Indians* . . . **or which is democratically elected** by the Adult Commuity to be served by such an organization and which includes the maximum participation of Indians in all phases of its activities," which defines the Association of Interior Eskimos as a tribal organization.

10. There is nothing in Federal laws or regulations that empowers the Bureau of Indian Affairs or any other government agency the right to deny any tribe recognition, or to interefere in the tribes election of an organization to represent and govern that tribes activities. As all necessary critera of P.L. 93-638 for a tribal governing body and a tribal organization has in fact been met by the Association of Interior Eskimos. The Bureau of Indian Affairs *must* automatically recognize them as such or violate the spirit and intent of the law.

ASSOCIATION OF INTERIOR ESKIMOS,
College, Alaska, March 19, 1976.

MRS. EDITH TEGOSEAK,
President, Eskimo Village Council,
Eskimo Village, Alaska.

DEAR MRS. TEGOSEAK: The Association of Interior Eskimos wishes to contract from the Bureau Of Indian Affairs, Fairbanks Agency the following programs: Employment Assistance, Credit, Tribal Operations, Social Services, Housing and Administration. The contract will be to provide the program services to residents of the Arctic Slope Region.

As an Association comprised of Eskimo people, we feel that we can provide meaningful services that will reflect the real needs of people in the North. Your leadership in the village will be consulted on matters of program and fiscal policy, so that all Eskimo people may experience "Self Determination".

However, before we can proceed toward acquiring a contract to provide services, we are required by federal law to obtain from you a resolution stating your wishes to have us contract. Sample resolutions are attached. I would very much like to visit you personally and discuss our plans in detail with you and members of your village, however, our organization lacks the travel funds required for such trips. Therefore would you please have your council send us a resolution as soon as possible. We hope to have the contract in effect before July 1, 1976.

Part of our request is for a planning grant that will allow us to make the trips and plan with you as to how the services should be provided. Our contract with B.I.A. will be to provide the services as we Eskimo people of the Arctic Slope feel it should be provided.

Thank you and I look forward to working with you.

Sincerely yours,

JOHN HEFFLE, Sr.,
President, Association of Interior Eskimos.

Enclosure.

RESOLUTION 76–

Whereas, The Eskimo Village Council is an Eskimo Governing Council as defined under the Indian Self Determination Act, Public Law 93–638, Section 41 and under its charter constitutions and by laws has full power and authority to enter into contract with the Bureau of Indian Affairs as defined under Public Law 93–638, Section 102, and;

Whereas, The Association of Interior Eskimos (A.I.E.) is an Association comprised of Eskimo people that can provide meaningful services that will reflect the real needs of the people in the Eskimo Village Area; therefore be it

Resolved, By the Eskimo Village Tribal Council that we grant authority to the Association of Interior Eskimos (A.I.E.) to enter into contract with the Bureau Of Indian Affairs to provide the program services of Employment Assistance, Tribal Operations, Credit Operations, Social Services, Housing and Administration to the Residents of Eskimo Village; and further be it

Resolved, The A.I.E. official authorized to negotiate the contract and any amendment thereto be Mr. John Heffle; and further be it

Resolved, The expiration date of the authorities granted by the resolution be indefinite unless otherwise determined by resolution; and further be it

Resolved, That the contract and or amnedments thereto, be subject to total review by the Eskimo Village Tribal Council before execution; and further be it

Resolved, The date for contract commencement be no later than July 1, 1976; and further be it

Resolved, The term of the contract be through the Bureau Of Indian Affairs Fiscal Year 1977 unless othewise determined by resolution.

CERTIFICATION

I, the undersigned, as secretary of the Tribal Council of Eskimo Village, do hereby certify that the Tribal Council of Eskimo Village is composed of 4 members, of whom 3, constituting a quorum, were present at meeting thereof duly and regularly called, noticed, convened, and held this 21 day of March, 1976; that the foregoing resolution was duly adopted at such meeting by the affirmative of 3 members.

Dated this 21 day of March, 1976.

(Signed) EDITH TEGOSEAK,
President.
SILAS N TEGOSEAK,
Secretary of the Village Council.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
Washington, D.C., March 11, 1976.

Hon. DON YOUNG,
House of Representatives,
Washington, D.C.

DEAR DON: To provide an update of our January 6, 1976, response in regard to Mr. John L. Heffle, Sr. on behalf of the Association of Interior Eskimos (A.I.E.) we are attaching a copy of a letter sent to Mr. Heffle on December 8, 1975, by the Juneau Area Director.

As noted in Mr. Antioquia's letter there are certain mechanics in the contracting process that must be completed. As was pointed out each tribal group affected by this proposed contract must provide, by resolution, their concurrence in the contracted arrangement.

This must be completed before the parameters of the contract can be established and meaningful negotiation can then began. Offers of assistance have been made from both the area and Fairbanks agency office but as of January 23, 1976, the A.I.E. has made no response seeking this assistance.

Sincerely yours,

MORRIS THOMPSON,
Commissioner of Indian Affairs.

Enclosure.

COOK INLET NATIVE ASSOCIATION,
Anchorage, Alaska, July 28, 1976.

Hon. JAMES S. ABOUREZK,
Interior and Insular Affairs Committee, U.S. House of Representatives, Washington, D.C.

DEAR SENATOR ABOUREZK: Enclosed is a resolution which was enacted by the Board of Directors of Cook Inlet Association concerning the one year special extension for enrollment under the Alaska Native Land Claims Act.

We solicit your support of this resolution to effect a time extension on the special enrollment to benefit all eligible Alaska Natives.

Sincerely,

JEANMARIE LARSON,
President/Executive Director.

Enclosure.

COOK INLET NATIVE ASSOCIATION,
Anchorage, Alaska, July 28, 1976.

Mr. MORRIS THOMPSON,
Commissioner, Bureau of Indian Affairs,
Washington, D.C.

DEAR MR. THOMPSON: Enclosed is a resolution which was enacted by the Board of Directors for Cook Inlet Native Association concerning the one year special extension for enrollment under the Alaska Native Land Claims Act.

We solicit your support of this resolution to channel it to the appropriate deciding body for action.

Sincerely,

JEANMARIE LARSON,
President/Executive Director.

RESOLUTION

Whereas, On January 2, 1976, the federal government re-opened enrollment for one year under the Alaska Native Claims Settlement Act to Alaska Natives who may be eligible to file their applications for benefits, and;

Whereas, The Bureau of Indian Affairs is responsible for implementing enrollment and has launched a worldwide search to locate eligible Alaska Native, and;

Whereas, BIA Enrollment Offices have received application forms but no instructions from the Bureau for processing these applications, and;

Whereas, Applications are not being handed out to eligible Alaska Natives since reopening of enrollment on January 2, 1976, and;

Whereas, Six months of the special enrollment extension have passed without allowing any Alaska Natives to apply for benefits under the Land Claims Act, and;

Whereas, The Department of Interior has a trust responsibility to tribes and Alaska Native villages, and the Bureau of Indian Affairs a mandate to advocate and serve all Native people, and: Now, therefore, be it

Resolved, That, Cook Inlet Native Association petitions the federal government to extend the special enrollment period an additional six months or until July 2, 1977 to allow eligible Alaska Natives adequate time to be located and to apply for benefits under the Alaska Native Land Claims Act;

A six month extension of the special enrollment would represent good faith on the part of the U.S. Government regarding its responsibility and promise to Alaska Native people under Alaska Native Claims Act.

The foregoing resolution was 7/29/76 duly approved by a vote of for 11 and 0 against by the Board of Directors of Cook Inlet Association, pursuant to authority vested in it by Section 8, Article III of the By-Laws of the Association incorporated under State of Alaska Charter in 1965. This resolution is effective as of the date of its adoption.

COOK INLET NATIVE ASSOCIATION,
By EDWARD W. ANDERSON,
Chairman.
MARY SHEPLER,
Secretary.

TANANA CHIEFS CONFERENCE, INC.,
Fairbanks, Alaska, September 8, 1976.

Hon. JAMES ABOUREZK,
U.S. Senate, Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR ABOUREZK: I would like to thank you for coming to Alaska to gather testimony regarding Public Law 93–638. Your continued demonstrated interest in the issues facing Alaskan Natives is a refreshing lift in working to seek true Indian Self Determination.

Although, I am sorry you were unable to make the trip to Fairbanks, you can rest assured that the job done by Senator Mike Gravel, Senator Ted Stevens and Commissioner John Borbridge was commendable and, in fact, with the spirit of the Sub-Committee on Indian Affairs.

Thank you very much,

Sincerely,

ALFRED R. KETZLER, *President.*

TLINGIT AND HAIDA INDIANS OF ALASKA,
Stanford, Calif., September 11, 1976.

Senator JAMES ABOUREZK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ABOUREZK: I woulld like to thank you for coming to Alaska to review, on a first hand basis, the problems Alaska Natives have encountered with the BIA in the implementation of the Indian Self Determination Act. Your visit to Allaska demonstrates to us your strong continued interest in the resolution of Alaska Native problems. A Legislation which reaffirmed recognition of the Central Council of the Tlingit and Haida Indians of Alaska as the tribal governing body for all Tlingits and Haidas would resolve the overwhelming majority of the problems in Southeastern Alaska. The hearing in Juneau demonstrated that we do not have a consensus on that position among all Tlingits and Haidas. However, I strongly contend that much of the dissent was caused by administrative actions of the Juneau Area Office which has consistently failed to recognize the tribal governing status of the Central Council until just recently. In our case it has been the Bureau itself which has inspired doubt among some Tlingits and Haidas that the Central Council is not the tribal governing body. In sum, the Bureau has created a serious and difficult internal political problem for the Central Councl through its actions. I do not feel the Act was intended to give the Bureau statutory authority to undermine federally recognized Indian tribes. Because of this situation I look forward to a legislative remedy which will reaffirm the tribal governing status of the Central Council.

I will submit testimony for the record which outlines my analysis of the situation for the Central Council, within the next few weeks.

Again I would like to express my appreciation of your interest in the resolution of Alaska Native problems. I look forward to continuing to work with you in this effort. If there are any aspects of the problem of implementation of the Act among Tlinngits and Haidas which you feel need clarification, I will be pleased to provide any necessary assistance.

Sincerely,

CHRIS E. MCNEIL, JR., *Second Vice-President.*

SEPTEMBER 2, 1976.

Hon. JAMES ABOUREZK: Early in 1974, we pursued the possibility of obtaining a loan through the Indian Financing Act. It cost me several hundred dollars to find out we were nnot eligible for the Indian Financing Act due to terminology and interpretation of thhe Act. Natives enrolled to Tlingit-Haida Central Council were not eligible because we are members of a relending institution. This eliminated *ALL* Tlingits and Haidas in Southeastern Alaska. I then wrote letters of protest to Congressmen Gravel, Stevens and Young. A letter was also written to Ray Paddock, President of the Tlingit and Haida Central Council.

My only other alternative at this point was to apply for a grant, which was tentatively approved pending a permanent move back to a village listed under the Native Land Claims. This move would cause many hardships on the family, i.e. remove my child from a special education class, or place her in a home near a special education school; Mrs. Martin would have to terminate her employment.

I am advocating changes be made in the Indian Financing Act, making *all* Natives eligible to apply, and removing the residency requirement.

The Indian Financing Act was supposedly implemented to comply with the Native Land Claims. Individuals enrolled are not prohibited to live in one specified area to be eligible. It is the individuals privilege to live in urban or rural areas.

The Indian is still considered a poor risk in the financial world and this Indian Financing Act would assist many Alaskan Natives enter into the business world.

AL MARTIN.

JANUARY 26, 1976.

Hon. MIKE GRAVEL,
Dirksen Senate Office,
Washington, D.C.

DEAR SENATOR GRAVEL: Early in 1974, we applied for a Grant from the B.I.A., for a year-round fishing vessel. The application was neither approved nor disapproved. It remained on active file pending further information. Another program, the loan guarantee, which would have been more beneficial to me, was still not implemented.

Upon further investigation, I discovered the loan guarantee program was implemented. We obtained additional information from the local B.I.A. Credit and Financing office. We then proceeded to compile our financial data; hired Molitor & Doremus, a Certified Public Accounting firm, to put the application packet together. A broker was contacted; a boat builder was contacted and a contract negotiated.

On January 22, 1976, Mrs. Martin called the Credit and Financing office, B.I.A., to obtain an eligibility certificate. She was then informed by Cliff Roehr that an interpretation of the Credit and Finnancing regulation had come in from the Commissioner stating the program would be implemented according to the A.N.L.C.S.A. Only those individuals residing in the ten (10) villages named would be eligible, also, only those who do not belong to an organization which loans money would be eligible. This ruling eliminated all Tlingit and Haidas in Southeastern Alaska, as Tlingit and Haida is loaning money on a small scale, not comparable to the type of financing I was seeking.

We were informed we could proceed with the application, on the assumption that we would be fishing for a native cannery, but the chances of final approval were slim, because we belong to the Tlingit and Haida Central Council. Mr. Roehr also informed Mrs. Martin that the Tlingit and Haida Central Council could obtain funding from B.I.A. or other sources to enlarge the T.H.C.C. loan program. B.I.A., by regulation or policy, could not loan money to a loaning institution.

There appears to be a struggle between B.I.A. and T.H.C.C. In the meantime, the Indian struggling for survival, is caught in the middle of the Bureaucratic shuffle. The Indian Credit and Financing was designed to assist the Indian who is unable to succeed in obtaining a loan from the competitive banking institutions. Because of the interpretation, only certain Alaskans enrolled in the A.N.L.C.S.A. are eligible and will assist only a select group of Alaskans, namely the northern Alaskans.

The A.N.L.C.S.A. contains a sub section, protecting the enrollees by such discrimination. B.I.A., a federal department designed to assist all Indians, Eskimos and Aleuts, is the first to discriminate?

The Credit and Financing Act is not the first law to pass Congress, only to get fouled up by the rules and regulations.

I question the Commissioner's ruling. Rules and regulations can be changed. This may not benefit me or my family now, but others in the future may be able to obtain better financial assistance.

Any assistance you may offer in this area will be greatly appreciated.

Sincerely yours,

AL MARTIN.

U.S. Senate,
Washington, D.C., April 5, 1976.

Al and Margaret Martin,
Juneau, Alaska.

Dear Al and Margaret: I am sorry for the tardy reply to your letter.

Enclosed find a copy of a reply from Joseph E. Kahklen of the Bureau of Indian Affairs along with a memo from the commissioner relative to my inquiry on your behalf.

At this point there is no legislation pending in Congress to amend Public Law 93-262.

However the Senate Interior Committee, Indian Subcommittee is considering a review of the definition of reservations in Alaska.

The committee indicated that clarification of the B.I.A. policy is needed before any action can be taken.

I will keep you informed on any changes in the B.I.A. policy and hope that a favorable resolution can be reached in the near future.

Kind regards.

Sincerely,

Mike Gravel.

U.S. Department of the Interior,
Bureau of Indian Affairs,
Juneau, Alaska, March 2, 1976.

Hon. Mike Gravel,
U.S. Senate,
Dirksen Senate Office Building,
Washington, D.C.

Dear Senator Gravel: In response to your recent inquiry concerning Al and Margaret Martin. The Indian Finance Act of 1974; Public Law 93-262, defined reservations in Alaska as "land held by incorporated Native groups, regional corporations, and village corporations under provisions of the Alaska Native Claims Settlement Act." This definition was amplified and clarified on January 19, 1976 by memorandum from Morris Thompson, Commissioner of Indian Affairs. I am enclosing a copy of that memorandum as well as a copy of my memorandum to the commissioner of January 26, 1976 protesting this definition.

Unfortunately until such time as changes are made in public law 93-262 the Bureau of Indian Affairs will be unable to extend the benefits of this law to the many deserving Alaska Native people who desperately need this type of financial assistance, but who live in areas of Alaska, both rural and urban, which are not mentioned in the Alaska Native Claims Settlement Act PL 92-203.

In the particular case of Al and Margaret Martin our Branch of Credit and Financing has used every means at our disposal to assist these people in acquiring the necessary financing to meet their need from conventional lending sources. Unfortunately the type of funding that they require is simply not available.

Hopefully Congress will react favorably to the needs of the Alaska Native people in the near future by amending PL 93-262 so as to enable us to help all of Alaska's Native population.

Sincerely yours,

Joseph E. Kahklen, *Alaska Area Director.*

[Memorandum]

To: Juneau Area Director.
From: Commissioner of Indian Affairs.
Subject: Reservation Status of Areas in Alaska.

A question has been raised concerning "reservation" areas in Alaska for purposes of the Indian Financing Act of 1974, particularly under Title IV of the Act, the Indian Business Development Program.

The Financing Act refers back to the Alaska Native Claims Settlement Act in defining reservations. The Financing Act states in Section 3(d) in defining reservation that it "includes . . . land held by incorporated groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act." The regulations in 25 CFR 80, 91, and 93 for implementing the Financing Act define reservations in the same language.

Based on this definition, in order for an area in Alaska to be considered a reservation, it must be held by one of the incorporated groups, regional corporations, or village corporations authorized and established by the Alaska Native Claims Settlement Act. Any land held by an Indian Tribe as a reservation and those villages and communities now recognized by the Bureau would also qualify as reservations. This also includes public domain Native allotments. However, cities, such as Anchorage, which are not held by one of the native groups would not qualify as a reservation for purposes of the Financing Act.

The purpose of the Financing Act is to improve and promote the economic development of reservations. To carry out this purpose the Act requires in Section 401 pertaining to grants that the economic enterprise to be funded must be on or near reservations, which is also the regulatory requirement for all programs under the Act. An enterprise located in a non-reservation area must be near a reservation and have a direct economic benefit to a qualified reservation area.

Morris Thompson.

U.S. Department of the Interior,
Bureau of Indian Affairs,
Juneau, Alaska, January 26, 1976.

[Memorandum]

To: Commissioner of Indian Affairs.
From: Juneau Area Director.
Subject: Reservation Status of Area in Alaska.

Your memo of January 19th referring to the subject creates a precedent which can become a case in point to begin limitations on not only the Indian Financing Act but all other programs of the Bureau here in Alaska. Alaska has until now been considered to have reservation status for all cities, towns or villages wherever our Native people found suitable conditions in which to live. All services of the Bureau, Indian Health Service and other government programs have extended their services to the Native people no matter where they may live. You now propose to begin limiting these services.

Your memo defines what a reservation is in relation to the Alaska Land Claims but only mentions "near a reservation" and does not define this term or how it is to be applied to the Act. How near a reservation is *near?* Eklutna is a recognized Native village under the Act and is within commuting distance to Anchorage, the same is true for Minto and Tanana in relation to Fairbanks.

Should an individual happen to live in a community that is not named in the Lands Claim in Alaska is no valid reason to limit services to him. He could conceivably require more assistance through the Bureau than if he had stayed in a Land Claims named village. Just because an Alaska Native lives in Juneau, Sitka, Kodiak, Anchorage, Fairbanks or some other unnamed community of Alaska not named in the Land Claims doesn't mean he has unlimited resources at his disposal or can borrow money in unlimited amounts for what he might wish or need.

I highly objct to the assertions and limitations you have placed on the Credit Program here in Alaska and request that you reconsider your position as to precedents you may have created.

Clarence Antioquia,
Area Director.

Grand Camp Alaska Native Brotherhood, Inc.,
Tenakee Springs, Alaska, August 28, 1976.

Senator Gravel,
Juneau Office, Juneau, Alaska

Dear Senator Gravel: Your telegram announcing a meeting of the Indian Affairs Subcommittee of the Senate Committee on Interior and Insular Affairs, 2 September, Juneau, Alaska, ws received and submit the enclosed position of the Grand Camp Alaska Native Brotherhood and Sisterhood, re "Self-Determination Public Law 93-638."

Sincerely,

Walter A. Soboleff,
Grand President.

Enclosure.

The Alaska Native Brotherhood and Sisterhood in Convention assembled in Haines, Alaska, November 10–15, 1975 having met to discuss the problems confronting the Native community. The State of Alaska and the United States; herewith submit a policy statement and position paper:

SELF-DETERMINATION

1. Believing that self-determination, in its truest sense, implies active participation by those making the determinations; we cannot accept the concept espoused in Public Law 93–638 that confers the status of "tribe" on village and regional profit making corporations.

Although we do not question the profit making corporations in their statutory fields we cannot believe that active participation of tribal members can be encouraged by corporations whose mission is to make a profit for the share holder.

Rather, this organization would encourage the broadest possible participation by "tribal" members in decisions that affect their "tribe."

We shall support any concept that permits active participation of members in decision making; regular elections and regular meetings.

It is not sufficient to designate an entity, profit or non-profit, as a legal "tribe;" there must be evidence of membership participation in decision making.

In other words, that the status of such a tribe be limited to implement the statute involved and not be used in the construction of some other statute.

LIMITED ENTRY

2. Though this organization supported the concept of limited entry, because of fishery depletion and that without control on the numbers of fishermen entering the industry a complete eradication of the resource is inevitable.

However, the program as it is now administered, lawful or otherwise, appears to be creating situations causing injury to some of our citizens.

Our people will best be served by cooperation with various Native organizations.

The resources available, human and financial, can best be utilized in cooperative efforts.

Lack of meetings contributes to misunderstanding and suspicion, and possible loss of a camp and therefore we offer our facilities as forums for discussion in which the village/regional corporations and Tlingit and Haida participate, including political parties.

We understand that for corporate matters, confidentiality is necessary and required, but also realize that public relations is a legitimate budgeted item and information of a non-confidential nature can and should be conveyed to our people. We urge more communication and also note with gratification that Sealaska authorized a staff members' attendance at this convention.

We applaud current efforts of Tlingit and Haida to work with our organization evidenced by decision of the Sitka Chapter to assist in renovation of the ANB Hall, we encourage other camps to communicate with Tlingit and Haida chapters to enter projects jointly for benefit of both organizations.

The appearance by officials and staff of Tlingit and Haida at this convention reflects well on them and contributes to good will.

Our interest in the activities of Native organizations is *constructive* interest and only takes the appearance of adversary when we fail to communicate—that it is in the interest of us all (Natives) that we concern ourselves in the activities of the regional and village corporations as well as Tlingit and Haida. We shall continue active interest and prefer that our attitude be constructive.

3. We urge corrective legislation that will allow entry into the industry for persons who have spent a lifetime in the industry, but who, for reasons beyond their control, were unable to qualify for entry permits because of their inability to meet a technical requirement.

That persons who can document a history of involvement in the fisheries industry with earnings totaling a major portion of their annual income be permitted into the fishery of their choice.

It is our considered judgment laws injurous to its citizens should be amended and we pledge involvement for remedial legislation.

NORTH SLOPE BOROUGH SCHOOL DISTRICT,
Barrow, Alaska, September 7, 1976.

Hon. MIKE GRAVEL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GRAVEL: I learned recently that the Senate Indian Affairs Subcommittee convened in Fairbanks to hear testimony regarding BIA interpretations of laws relative to sign-offs by village corporations before services can be provided. Had I known about the hearings, I would have provided the following information in person.

The North Slope Borough School District has submitted a Johnson O'Malley proposal to BIA for $399,088.00. The proposal was signed off by the Parent Advisory Committee representing each village, the School Board and the Arctic Slope Regional Corporation. However, we have since learned that an additional seven sign-offs are required, one from each village corporation.

A representative from the North Slope Borough School District went to Pt. Hope specifically to review the proposal and to receive that village corporation's authorization to provide services in Pt. Hope. Because of weather conditions, the trip which was expected to take two days took, in fact, five days. The costs to the North Slope Borough School District came to $1,583.00 ($640 travel and per diem; $943 lost wages).

Representatives of the Pt. Hope Village Corporation were very courteous and listened to a complete description of the JOM proposal. Unfortunately, no action on the proposal was taken and no signatures received. Consequently, the administrative spent one week in non-productive activity, and the North Slope Borough School District spent $1,583.000 for no gain. Multiply these costs against five additional villages and it becomes apparent that insistence upon individual village sign-offs could result in a school district's reluctance to provide supplemental services since dollars spent without authorization are nonrecoverable.

The BIA's regulations mandating village corporation sign-off may provide a degree of communication with village residents. However, they become both redundant and expensive when we have several sign-offs, including the Federal Programs Advisory Committee, the North Slope Borough School Board and the Arctic Slope Regional Corporation. It appears that they could offer certain waivers from the regulations in Borough school districts and other unified municipalities. I would appreciate any information you might have in this matter.

Sincerely,

JOHN E. ANTTONEN, *Superintendent.*

HOOPER BAY, *September 13, 1976.*

Hon. MIKE GRAVEL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GRAVEL: Self-Determination Act recognizes "Alaskan Villages" listed with Alaska Native Settlement Act as tribes. AVCP is an association organized primarily to deal with Alaska Native Land Claims Act and listed under the Code of Federal Regulations (85 Stat. 688–716). I understand Bethel—Agency of BIA and Juneau Area Director have testified otherwise. If this becomes another Federal merry-go-round with the bureaucratic riders flashing deus ex-machina definitions and downright opposing the Act itself, how do you expect Self-Determination Act to be a success? Actual contracting with BIA have been a horrifying experience even the best of CPAs and computers doing their thing. I request that JOM cost-reimbursable system not be used in the future BIA contracts. Most of the regional organizations have gone under due to the system.

Closing this letter with the hope all those responsible to implement the Act reassure themselves upon the intend of the Act.

Sincerely,

R. J. MURRAN, *Yupiktak Bista, Inc.*

TANANA CHIEFS CONFERENCE, INC.,
Fairbanks, Alaska, January 23, 1976.

Mr. SAM KITO,
President, AFN, Inc.,
Anchorage, Alaska.

DEAR SAM: Attached is a copy of a memorandum from Commissioner Morris Thompson regarding the reservation status of areas in Alaska. Historically, all of Alaska has been considered a reservation for the purposes of determining eligibility of Alaska Natives for various services provided by the Bureau of Indian Affairs. However, the January 19th memorandum from Commissioner Thompson indicates that urban areas of Alaska are not considered as reservation areas for the purposes of determining eligibility of individual Natives for grants and loans available through the Indian Financing Act of 1974.

I believe that it is imperative the Native organizations in Alaska immediately confront the Bureau on this point and persuade the Bureau to provide an equal level of services to all Alaska Natives regardless of residence. The Bureau may explain that the determination of eligibility for Indian Finance Act Services may have been made because of limitations on the funds available, however I am concerned that any definition of reservation and non-reservation areas in Alaska will foreshadow a cutback in many programs other than the Bureau's financing programs. I would encourage you to address this problem as soon as possible and to seek corrective action.

Sincerely,

TOM RICHARDS,
Director of Native Services.

Enclosure.

[Memorandum]

To: Juneau Area Director.
From: Commissioner of Indian Affairs.
Subject: Reservation Status of Areas in Alaska.

A question has been raised concerning "reservation" areas in Alaska for purposes of the Indian Financing Act of 1974, particularly under Title IV of the Act, the Indian Business Development Program.

The Financing Act refers back to the Alaska Native Claims Settlement Act in defining reservations. The Financing Act states in Section 3(d) in defining reservation that it "includes . . . land held by incorporated groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act." The regulations in 25 CFR 80, 91, and 93 for implementing the Financing Act define reservations in the same language.

Based on this definition, in order for an area in Alaska to be considered a reservation, it must be held by one of the incorporated groups, regional corporations, or village corporations authorized and established by the Alaska Native Claims Settlement Act. Any land held by an Indian Tribe as a reservation and those villages and communities now recognized by the Bureau would also qualify as reservations. This also includes public domain Native allotments. However, cities, such as Anchorage, which are not held by one of the native groups would not qualify as a reservation for purposes of the Financing Act.

The purpose of the Financing Act is to improve and promote the economic development of reservations. To carry out this purpose the Act requires in Section 401 pertaining to grants that the economic enterprise to be funded must be on or near reservations, which is also the regulatory requirement for all programs under the Act. An enterprise located in a nonreservation area must be near a reservation and have a direct economic benefit to a qualified reservation area.

MORRIS THOMPSON.

TANANA CHIEFS CONFERENCE, INC.,
Fairbanks, Alaska, July 7, 1976.

Commissioner MORRIS THOMPSON,
Bureau of Indian Affairs,
Constitution Avenue NW., Washington, D.C.

DEAR COMMISSIONER THOMPSON: Thank you for the opportunity for me and Mr. Ketzler to meet with you in Cherokee, N.C., on June 24. This letter is provided in response to your request to amplify on events and matters leading to the deterioration of the relationship between the Tanana Chiefs Conference and the Bureau of Indian Affairs subsequent to the signing of our contract for management of many programs formerly administered by the Fairbanks Agency of the Bureau of Indian Affairs. At the present time, I would describe the relationship between the Tanana Chiefs Conference and the Bureau as an extremely poor one.

It has been our experience in negotiating, implementing, and performing the contract which we signed with the Bureau of Indian Affairs on October 15, 1975 that the Bureau, particularly the Juneau Area Office, has been negative in many aspects of dealing with the Tanana Chiefs and other Native organizations in the contracting process. The Tanana Chiefs Conference is disappointed in the lack of leadership from the Juneau Area Office in developing contracting policies and procedures, in accordance with the intent of the Self-Determination Act, which will turn over the operations of the Bureau to Native control with minimal opposition from Bureau officials.

It is our observation that most of the problems attendant to this contract are not related to program activities and the performance of these activities by the Tanana Chiefs Conference. Essentially, the problems we experience are not in getting the programs to operate efficiently and to deliver a satisfactory level of service to the Tanana Chiefs Conference constitutency, but the problems have been in achieving the cooperation of the Bureau, specifically the Juneau Area Office, in allowing the Tanana Chiefs Conference flexibility as the Native contractor to make changes and decisions to improve our service delivery capability.

There are many numerous instances in which the Bureau, especially the Area Office, has taken the most restrictive interpretation and approach in dealing with our contractual relationship. We believe, however, that in the interest of providing insight into the over-all contractual relationship between the Bureau of Indian Affairs and all Alaska Native corporations and organizations, we should point out initially some problem areas which are common to all Native contractors.

The one item that has caused Native contractors the greatest amount of frustration in dealing with the Bureau is the unwillingness of the Area Director and the Bureau to resolve administratively the tribal status of the non-profit regional corporations in Alaska. It has been our belief that the intent of the Congress and the Self-Determination Act is that Alaska Native Regions be recognized as tribes for the purposes of contracting. It has also been our position that the Juneau Area Director and the Bureau have the authority to make the determination that regions are eligible to contract as tribes. The Area Director has refused to do this and the Deputy Commissioner has upheld the Area Director and his interpretation that Alaska Native villages are solely tribes for the purposes of contracting.

The Tanana Chiefs Conference has called upon representatives of the Senate and House Interior Committees for their interpretations of what was intended by the Congress in developing tribal definitions and whether the Committees believed it may be proper for the Bureau to enter into contracts with regions and consider regions as tribes for the purposes of contracting. Meetings with Mr. Forest Gerard of the Senate Interior Committee and Mr. Frank Ducheneaux and Mr. Mike Jackson of the Indian Affairs Sub-Committee of the House Interior and Insular Affairs Committee have been productive in indicating that the Congress and Congressional Committees do in fact believe that it is within the scope of the Act and the intent of Congress for the Bureau of Indian Affairs to consider regional non-profit corporations as tribes for the purposes of contracting under Public Law 93-638.

Additionally, we requested the interpretation of Senator Abourezk's office as to the appropriateness of the nonprofit regional corporation's contracting under Public Law 93-638, and have been grateful for the input of Senator Abourezk's office and the presence of Mr. Tony Strong of Senator Abourezk's office at a series of meetings with the Central Office to try to resolve the question in the Bureau's mind of the tribal status of non-profit regional corporations. Mr. Strong, after review of the situation, has been supportive of the interests of Alaska Natives in seeking to obtain recognition of non-profit regional corporations as tribes administratively through the Bureau in order to contract under Public Law 93-638.

We are grateful for the input from all the congressional people and from the continuing effort of Mr. Bobo Dean to satisfactorily resolve this problem, but are extremely disappointed at the lack of understanding of the situation evidenced by the Bureau. We have no other choice but to observe that the Bureau's position on this item has been developed from the perspective of an Area Director jealously guarding proprietary interests in Bureau programs and being upheld by Central Office officials having no understanding of the Alaska situation other than that which they receive from the Area Director.

The Tanana Chiefs Conference, although frustrated with the procedural requirements, will probably have little difficulty in obtaining resolutions from each of the 43 villages as the Area Director and the Deputy Commissioner are requiring in order to contract under the Self-Determination Act. We are concerned, however, that many other regions in Alaska will have difficulty in satisfying these procedural requirements due to funding problems and poor communication and other situations which I am sure you are well aware of. We are disappointed in the questions that the Area Director has developed of the roles of the regions in functioning as service delivery systems and further disappointed that the Bureau is interfering with the efforts of Alaska Native people for the past two decades in developing the regional concept to preserve and protect their interests.

We are concerned that the Central Office has not taken the initiative and leadership to resolve this problem primarily because of the lack of understanding of the Alaska situation and the reluctance of the Central Office to involve the Commissioner in what is apparently considered to be an "Alaska situation." We would hope that your attention to the matter of tribal status of regions in Alaska would be beneficial based upon your knowledge of the many years of frustration the Alaska Native organizations have experienced in attempting to gain control of programs intended to serve their members and based on your understanding of the manner in which the Administration and the Congress have felt appropriate to deal with Alaska Native peoples.

We believe it is indicative of the Bureau's attitude and over-all approach toward implementing 638 contracting policies in Alaska that, although the House and Senate Committees and the Alaska Delegation and the Alaska Native interests are fully in agreement in this matter, it remains only the Bureau which steadfastly clings to the most cumbersome means of implementing self-determination for Alaska Natives.

The Tanana Chiefs Conference, the Alaska Federation of Natives, and our friends on the hill have offered a compromise which we believe is most reasonable. The compromise offered would allow Alaska Native regional nonprofit corporations to pursue contracts as the law provides with villages having the opportunity to vote themselves out of the contract should they so desire. Those congressional interests most knowledgeable about self-determination, our own attorneys, and our leadership believe that is entirely appropriate within the law to approach implementation of 93–638 contracts in Alaska in this matter. Again it remains only the Bureau which adheres to the most prohibitive procedural requirements.

During a meeting with you on a recent trip to Alaska, the Tanana Chiefs Conference requested and received your assurance that the Bureau would not oppose the efforts of the Tanana Chiefs Conference and Alaska Federation of Natives to amend the language of the Act to allow regional non-profit corporations to be considered as tribes for the purposes of contracting. Even in light of this commitment, we are now receiving reports that the Area Director has taken the initiative to develop an amendment proposal which he believes will satisfy the concerns of all involved. He has informed our attorney that this "Antioquia Amendment" will do much to dispel the clouds of doubt concerning implementation of these policies in Alaska. If there indeed is an Antioquia Amendment, we believe it to be entirely inappropriate in light of the commitment which you made to us that the Bureau would not interfere with the efforts of the Alaska Federation of Natives and the Tanana Chiefs Conference to seek a congressional solution. And, if there is an Antioquia Amendment which is receiving the wide support which Mr. Antioquia indicates he is receiving from the Native leadership, none of the Native leaders we have contacted (and we have contacted great many) are aware of any such amendment.

Although, we believe congressional interests are sincerely sympathetic to the problem, the press of business before the committees will not provide for congressional relief of this problem during the current session. Indeed, they have joined us in urging you to end the confusion and to act administratively to dispel the doubts and enable us to continue to progress in the spirit of self-determination in Alaska. We urge you to draw upon your own knowledge of the situation, to consider the legislative history in reviewing the manner in which the Administraton and the Congress have chosen to deal with Alaska Native people, and to review the intent of the Self-Determination Act and exercise your responsibility to provide for what is right and just and to allow the Self-Determination Act to be implemented within the spirit of the law in Alaska.

We are confident, that regardless of how many obstacles the Bureau may throw in the path of self-determination, Alaska Native peoples have the strength and resolve with which to overcome them and to assume control of the service delivery systems which serve our people and to gain full control over our own affairs. Based upon our experiences in dealing with Juneau Area Office and the Bureau, I am certain that once we overcome this obstacle, the Area Director and those who subscribe to his policies of the old order will continue to discover and litter the path of self-determination with similar harassment. There are already many examples of this. For example, dictation of contractor's personnel standards, exclusion of Native contractors from Area-wide meetings, imposition of full audit situations without notification of contractors, near total abandonment of any advocacy role on behalf of Native contractors, insistence on maintaining approval over-sight on out-of-state travel by Native contractors, and over-all interference in management decisions of Native contractors by the Area Director.

The most recent audit that the Area Director called for our contract, although it was called without notice, resulted in only a minor number of audit exceptions. We remain curious as to why we had received a full-blown audit of our programs when in fact we had requested merely a survey team to assist with establishing our indirect cost rate. It is also interesting to note that the major part of these few audit exceptions included travel out-of-state by myself and staff without approval of the Area Director. In fact, we exercised our responsibility for management of these programs and made management decisions to authorize this travel in the absence of any response from the Area Director on such travel requests. It is interesting to observe that the Tanana Chiefs Conference is being penalized for the non-actions of the Juneau Area Office.

You may be also interested to learn that our last trip to Washington in which we discussed many of these problems with Deputy Commissioner Frankel was funded by the AFN Division of Technical Assistance. The Area Director's response to my request for using my budget to travel to Washington to discuss our contract was that it was inappropriate for me to travel anywhere outside of the Tanana Chiefs Conference region. If it were not for the assistance and cooperation of the AFN Division of Technical Assistance, I do not know where the Tanana Chiefs Conference Native Services Department would receive its technical assistance. Certainly, we do not receive any such assistance from the Area Director in the Juneau Area Office.

Another such example of the lack of responsiveness of the Area Office is evident in our Credit program. We made requests for technical assistance to the Juneau Area Office to assist in developing packages for applicants for consideration through the Indian Business Development Funds Program. The Area Office response was that Juneau would provide technical assistance if we travelled to Juneau to receive it. Inasmuch as it is rather cumbersome to bring our staff, all the relevant materials, and our applicants to Juneau for this purpose, this offer of technical assistance was completely meaningless. When the same request was made to the AFN Economic Development Office and the AFN Division of Technical Assistance, teams of accountants were dispatched to our office to work with our staff and clients in developing Indian Business Development Fund applications.

Perhaps this poor relationship and the poor attitude of the Area Director and his staff is a blessing in disguise for the Tanana Chiefs Conference and other Native contractors. If we were not challenged with such obstacles on a daily basis it may have been much more difficult for us to develop the strength and resolve and character required to succeed over the long run. In any event, a definitive response from you would indicate to us once and for all whether the cavalier approach of the old order remains locked into the entire Bureau structure.

We shall again make a request to the Area Director for approval of out-of-state travel during the latter part of the week of July 19 to meet with you hopefully, should your schedule permit and with Mr. Frankel. It is our intention to develop a package of appeals in seeking to overturn a multitude of Area Director Antioquia's restrictive decisions which have adversely impacted the implementation of our current contract and threatened to delay implimentation of the self-determination contract. In tht event that the Area Director says it is inappropriate for me to travel to Washington to discuss his behavior with you, I believe it shall be possible to locate funds for this trip from the many other more willing sources of technical assistance to our programs.

Please do not construe by this letter that we believe the entire Bureau of Indian Affairs is seeking to either covertly or overtly sabotage the implementation of the contracting policies. Fairbanks Superintendent Fred Baker has been of tremendous assistance to us in his capacity as Contract Officer's Representative and has proven himself to be totally committed to the self-determination policies. At the Central Office, Deputy Commissioner Frankel and Mr. Krenzke and Mr. Butler among others have been cooperative and understanding during recent meetings. It is merely the middle two dozen or so links in the chain of command that we have some serious problems with.

It seems to us that we have a situation in the Bureau where the key personnel at the Central Office level seem committed to self-determination policies and we receive a similar commitment from the Fairbanks Agency but we must continually confront middle ground which is adverse to the contracting policies and accountable to no one. We are hopeful that your complete and immediate attention to this matter will provide us with some insight as to whether we may expect any relief in the future.

Sincerely,

THOMAS RICHARDS, Jr.,
Director of Native Services.

WEISSBRODT & WEISSBRODT,
Washington, D.C., August 12, 1976.

CHRIS MCNEIL, Jr.,
Second Vice President, Central Council of the Tlingit and Haida Indians, West 10th Street, Juneau, Alaska.

DEAR CHRIS: From your letter of August 4 and our telephone conversion of August 10 I take it that BIA has upwards of $200,000 available to grant under the Indian Self Determination Act for the development of tribal government in Southeast Alaska; that BIA takes the position that the village corporations in Southeast organized under the IRA, rather than the Central Council, are the entities primarily qualified to apply for and to receive grants of the funds available.

I agree with you that the Central Council should do nothing that might be interpreted as an endorsement of BIA's position. The Central Council must insist in all things and at all times that it is the primary governing body of all of the Tlingit and Haida Indians. Under the 1965 amendment of the Tlingit and Haida Jurisdictional Act, the Council enjoys a status unlike that possessed by any other native regional association in Alaska. It has been constituted by Congress as the governing body of the Tlingit and Haida Tribes. Legally it differs not one whit from the Navajo Tribal Council or the Crow Tribal Council. No other native regional association in Alaska, to my knowledge, has such status.

The constituents of the Central Council are all of the Tlingit and Haida Indians, not the IRA corporations or even the community councils organized under the Central Council. In short, the Central Council is not an association of smaller primary entities but of the Tlingit and Haida Indians as a whole.

There seems to be some tendency in BIA to look upon the Council as though it were something like the United Sioux Tribal Organization, which is composed of several sovereign and independent tribes. This tendency is pernicious and its predicates are dead wrong both in law and in fact.

I also agree with you that the Council should not accept BIA's dictate that the funds be distributed among the Tlingit and Haida communities on a strict per capita basis. I have no doubt that the Council can devise a much more rational formula.

If because of time constraints the Council is disposed to comply with BIA's condition to its receiving the funds that it obtain approvals from the communities, I would suggest, in submitting such approvals, that the Council make clear that it does not accept BIA's interpretation of the Self Determination Act or BIA's view of the status of the Council.

As I told you on the telephone, I understand that Senator Abourezk plans to hold hearings soon in Alaska on the implementation of the Self Determination Act. Tentatively, I understand, he plans to hold these hearings during the Labor Day recess scheduled for the first week in September. If possible I think representatives of the Council should brief Senator Abourezk on its need to have its status as the governing body of the Tlingit and Haida Tribes confirmed.

Although, under existing law, I think the status of the Council as the governing body of the Tlingit and Haida Indians is reasonably clear, I would prefer to attempt to confirm and settle its status as such by legislation rather than by litigation initially. As you know, favorable resolution of the issue of the status of the Council is important for purposes going far beyond contracting etc. under the Self Determination Act. If, as now appears likely, there is a change of administration in January, we might try again to win confirmation of our view of the status of the Council from the executive branch Anyway, among the possible means of settling the issue I am presently inclined to save litigation for last.

I note that the draft resolution enclosed with your letter describes the Council as "a non-profit corporation created by Congress." This is not right. The Central Council should be characterized as "the general governing body of the Tlingit and Haida Indians of Alaska."

When we talked on the telephone you were preparing to attend a meeting with LaFollette Butler. I would be very interested in knowing how it went.

Kindest personal regards and best wishes.

Sincerely yours,

RICHMOND F. ALLAN.

INDIAN SELF DETERMINATION ALASKA NATIVE BROTHERHOOD, CAMP NO. 2, JUNEAU, ALASKA—SEPTEMBER 2, 1976

This second day of September this hearing on Indian Self Determination being held in this Court Room in Juneau, Alaska is an historic occasion.

On the subject of Self Determination, the Alaska Native Brotherhood and Sisterhood, formed in 1912 has been a model in Self Determination for all Indians in America. The Alaska Native Brotherhood was founded by Indians, Native to Alaska, in 1912 and has served the needs of Indians to this day.

The Alaska Native Brotherhood is a nonprofit corporation and its goals are set out in a constitution recognized as an outstanding document providing direction for the tribal government of the Indian Natives of Alaska and,

Whereas, The Alaska Native Brotherhood is unique in all the world, conceived by Alaskan Indians and organized by Alaskan Indians to serve Indians and,

Whereas, The Alaska Native Brotherhood has provided Tribal leadership to the Indians of Alaska since 1912 serving needs of Indian people without profit or pay teaching leadership skills and preparing Indians to assume leadership roles and,

Whereas, The Tribal government structure exists within the Alaska Native Brotherhood Camps of Alaska where Indian leadership stands the test of time, and

Whereas, The Alaska Native Brotherhood is recognized by the Indians as a Tribal Governing body,

Therefore, We hereby appeal for recognition as a Tribal Governing body with all rights and privileges flowing to the Indian People of the Alaska Native Brotherhood.

JUNE 1, 1976.

Mr. RAY PADDOCK,
President, Tlingit and Haida Central Council, Seward Street, Room 416, Juneau, Alaska

DEAR MR. PADDOCK: Recently, Mr. Dave Katzeek, a private consultant, met with you on my behalf, concerning a loan guarantee on a fishing vessel.

My objective is to obtain a loan guarantee for a $150,000 king crabber. My application for a $25,000 Bureau of Indian Affairs grant has tentatively been approved, pending a long term financing commitment.

Pan Alaska Fisheries, the owners of the king crabber I am purchasing, can finance the vessel, if I can obtain a loan guarantee. The terms are as follows:

(1) $150,000 purchase price.
(2) $25,000 down payment.
(3) 5 years to finance at 9 percent interest.
(4) First preferred marine mortgage.

Mr. Katzeck informs me that Tlingit and Haida Central Council cannot give a loan guarantee on fishing vessels using the vessel as collateral. Can other tangible assets be used as collateral, or is loan guarantees for a fishing vessel prohibited entirely? I realize your hands, as the President of Central Council, are tied by prior Resolutions passed during conventions. Is there a possibility of these resolutions being amended in the near future. If not, Tlingit and Haida Central Council is preventing other fishermen like myself from becoming eligible for the Indian Financing Act Loan Guarantee Program, by not providing loans or loan guarantees on fishing vessels. The majority of the Tlingits and Haidas are fishermen, and are being forced out of their own trade by the inability to obtain loans or loan guarantees. Although the State of Alaska has a revolving loan fund program, our Indian fishermen are eliminated as candidates right from the beginning because the Indian is still considered a poor financial risk.

If Tlingit and Haida Central Council cannot give loan guarantees, perhaps you can steer me in the direction of a loan institution that can do it. I will appreciate any assistance you can offer me in my efforts to purchase a fishing vessel and become an independent fishermen. Most of our people are operating company boats and cannot sell to fresh fish markets, because they are dictated by the giant fish companies. I have been an independent fisherman too long to go back to that.

Enclosed, you will find a copy of my grant application, the letter of approval from BIA, letter from Oaksmith Boat Sales, Inc., and letters written to Mike Gravel, U.S. Senator, and replies concerning the Indian Financing Act.

Respectfully yours,

Al Martin.

Enclosures.

U.S. Department of the Interior,
Bureau of Indian Affairs,
Juneau, Alaska, May 12, 1976.

Al and Margaret Martin,
P.O. Box 1147,
Juneau, Alaska.

Dear Mr. and Mrs. Martin: This is to inform your Grant application has been tentatively approved for $30,000. These funds have been obligated for 45 days from today. Funds will be advanced, at your request, directly to Pan Alaska Fisheries upon receipt of a copy of your contract with Pan Alaska Fisheries and some proof that you have completed your move to Angoon and are bonified residents of that city. A certified statement from the Honorable Peter Jack, Mayor of Angoon, to that effect will be adequate.

Also please be advised that you are required to remain residents of Angoon, or some other qualifying reservation area, for a period of five years from the date that you receive this grant, and that should you fail to do so the government will demand the return of an amount of money equal to the grant amount.

Sincerely yours,

—— ——,
Acting Area Director.

Fairbanks, Alaska, *December 12, 1976.*

Mr. Kleppe,
Secretary, Department of the Interior,
Washington, D.C.

Dear Mr. Kleppe: This is an official invitation for you to attend a joint meeting between officials of the B.I.A., and our Association.

The meeting is to straighten out areas where the B.I.A. has been in dereliction in their trust, responsibilities to the Interior Eskimos and have shown disregard for the request for assistance or equal to other local native organizations.

Mr. Baker, Superintendent of the B.I.A., violated our right to privacy by obtaining addresses of the Board members by corresponding directly to them and making mandatory in writing what he has not done to other Native groups, Regional Corporations, or Village Councils.

A request for you to attend the meeting while Mr. Thompson, Mr. Antioguia, Mr. Baker, and our Board is present was made two weeks agao directly to your office. We were informed that we would receive confirmation, but to-date, none has been received. Also, Mr. Thompson refused to allow financial aid to make it possible for us to go to Washington, D.C. to see you directly.

We sincerely hope you will attend as this is extremely important to the Interior Eskimos and their guest for equal status and treatment from the B.I.A. This meeting will take place December 13, 1975, 10:30 A.M., Suite 47-B, Alaska National Bank Building, Fairbanks, Alaska.

Respectfully,

MRS. EVA HEFFLE,
Activities Director A.I.A.,
Past President.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
Washington, D.C., December 12, 1975.

JOHN HEFFLE,
President, Associate of Interior Eskimos,
College, Alaska.

DEAR MR. HEFFLE: Your letter of November 4, 1975, to the Secretary of the Interior has been referred to me for reply.

Your interest in contracting for the operation of the entire Juneau Area Office is, of course, within the scope of activities provided for by the Indian Self-Determination and Education Assistance Act of 1975 (P.L. 93-638). However, there are practical considerations to be taken into account before your ambition can be realized. As you know, if an Indian tribe wishes to assume responsibility for BIA functions affecting that tribe only, a resolution of the tribal governing body is sufficient to enable the tribe and the BIA to take the first step leading to a contract. If, however, a tribe or organization proposes to assume BIA functions affecting more than one tribe the following applies (25 USC 271.18(a)) ". . . If a tribal organization is applying for a contract to perform services benefiting more than one tribe, an authorizing resolution *from each tribal governing body* must be obtained *before submitting the application to the Bureau* for approval." (emphasis provided)

Also, 271.2(h) "'Indian Tribe' means any Indian Tribe . . . *including any Alaskan Native Village* or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is federally recognized as eligible by the United States Government through the Secretary for the special programs and services provided by the Secretary to Indians because of their status as Indians." (emphasis provided)

Accordingly, it would be necessary, prior to entering into discussions with the BIA regarding the contract which you propose, that you obtain the approval of each of the villages served by the Juneau Area Office. A resolution of the village council or other recognized governing body would be required in each case.

I am sorry that my answer cannot be on a more encouraging note, however, I am sure you can understand the necessity for affirmation by those affected by any proposal to contract for their Bureau of Indian Affairs services by an agency other than their own village or corporation.

Sincerely yours,

MORRIS THOMPSON,
Commissioner of Indian Affairs.

ASSOCIATION OF INTERIOR ESKIMOS,
Fairbanks, Alaska, December 10, 1975.

FRED BAKER,
Superintendent, Fairbanks Agency B.I.A.,
Fairbanks, Alaska.

DEAR MR. BAKER: In response to your verbal statement to me at the Fairbanks office B.I.A. on December 9th, 1975, as to the approval of the forthcoming meeting on December 13, 1975, between Representatives of the Bureau and our Association.

Our Board has been notified that the pre-scheduled meeting, is in fact, going to be held at our office, Suite 47-C, in the Northward Building at 10:30 A.M.

It is understood that yourself, Clay Antiogula, and Morris Thompson will be present.

If I have misunderstood you in regard to the above, please respond immediately in writing.

If we do not hear from you by 4:00 P.M., December 11, 1975, then we will assume that my understanding was accurate.

Sincerely yours,

JOHN L. HEFFLE, Sr., *President.*

ASSOCIATION OF INTERIOR ESKIMOS,
Fairbanks, Alaska, December 8, 1975.

FRED BAKER,
Superintendent, Fairbanks Agency B.I.A.,
Fairbanks, Alaska.

DEAR MR. BAKER: Our Association is in acknowledgement of your letter dated December 1, 1975, and the scheduled meeting on Saturday, December 13th with Mr. Thompson, Mr. Antiogula, and yourself.

The following is a list of unresolved issues involving the Bureau, its policies, programs, and our Association:

1. Unanswered correspondence.
2. Lost or missing correspondence, applications, and memos.
3. Unanswered complaints via telephone, letters, and orally.
4. Unfulfilled promises on grants, contracts, and financial assistance.

We had anticipated Mr. Kleppe's presence at the meeting, but his office has not been in contact with us to date, although it was agreed that they would. It is our desire that the meeting be conducted in our office at the Northward Building, Suite 47 "C" or the adjacent empty office.

Respectfully,

JOHN L. HEFFLE, Sr., *President.*

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
JUNEAU, ALASKA, *December 8, 1975.*

JOHN L. HEFFLE, Sr., President,
Association of Interior Eskimos,
Fairbanks, Alaska

DEAR MR. HEFFLE: We are in receipt of your letter dated November 19 1975, advising of the intentions of Association of Interior Eskimos to contract Bureau programs in the Arctic Slope Region.

In stating that approval has been received from Arctic Slope Native Association and the North Slope Borough Mayor, you indicated that some ground work has already begun and that contractual services for more than one tribe is contemplated.

Please find a reference copy of the Indian Self-Determination and Education Assistance Act (PL 96–638) enclosed which will add a greater dimension to the rather brief explanation covered here regarding the next steps for your organization to pursue toward contracting.

"When a contract is to be let to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting of such contract" (271.2R). The approval referred to here must be in the form of an authorizing resolution from each tribal governing body to the proposed contractor *before* the application to contract is submitted to the Bureau for approval (see 271.18). The first step is to obtain this priority documentation and next, to submit it with your application.

Applications (see 271.14) required tribal identifying data, resolutions, programs, budget and personnel information, advance payment needs, etc. Applications for these new regulations are being developed and should be available from Fred Baker, Fairbanks Agency Superintendent within a reasonable period, to accommodate your organization. Completed applications are returned to Mr. Baker where agency level processing begins. Final review occurs in Juneau Area Office for aprpoval (or disapproval), negotiation and award of the contract.

The particular Bureau programs you anticipate contracting were not specified in your letter, but if there are questions about which programs are contractable, please see sections 272.12 and 272.32 in the regulations for clarification.

There would be some question as to finalizing a contract by January 1, 1976, based partly on the cumbersome mechanics of collecting all the necessary documents required, partly on the volume of contract requests expected.

We trust this information provides some guidelines for proceeding. If further assistance is needed, please feel free to contact either the Fairbanks Agency Superintendent or this office.

Sincerely yours,

CLARENCE ANTIOQUIA,
Area Director.

Enclosure.

NORTH SLOPE BOROUGH,
BARROW, ALASKA, *December 8, 1975.*

CLARENCE ANTIOQUIA,
Director, Bureau of Indian Affairs,
Juneau, Alaska

DEAR CLAY: We have reached an agreement with the Association of Interior Eskimos that they act as our contracting agent for BIA services and programs for all Eskimo BIA beneficiaries of Fairbanks, as well as those within the boundaries of the North Slope Borough.

BACKGROUND

I recall serving on the Barrow City Council in the 1960's when the City began contracting for the operation of our local BIA social services program. When the Land Claims Act was passed, our region organized all Home Rule Borough government to provide services which, in other areas, are provided by regional non-profit social service corporations. Our regional non-profit organization, the Arctic Slope Native Association, has been defunct since the organization of the North Slope Borough.

In 1974, the Tanana Chiefs Conference attempted to contract for the Northern regional BIA operations. I attended a meeting at the Fairbanks agency office where I met John Heffle and learned of the Association of Interior Eskimos, a non-profit organization which desires to contract for services to the Eskimo community of Fairbanks.

Because of other problems here, we have not focused our efforts on BIA program contracting: so far as I know, the only BIA service contract within our Borough has been with the City of Barrow, and we have seen no need to interfere with the City's program. So, over the past couple of years, we have merely observed the efforts of the Association of Interior Eskimos to gain responsibilities and status under the Indian Self-Determination Act. Recently, however, we have been making an effort to increase Federal financial participation in the North Slope Borough's budget, stimulated by a combination of rapid growth of Borough programs and services, needs, inflation and the threat of NPR-4 development impact. But, beyond our growing concern for increased Federal support, we have a larger fraternal concern for the problems being addressed by the Association of Interior Eskimos.

As you know, the BIA has long been concerned with the status of the welfare of steadily-growing urban communities of Native people who are displaced from their homelands. Fairbanks has become one of Alaska's largest urban Native communities in which our Eskimo people, many from the North Slope Borough, are a minority. The organization and persistence of the Association of Interior Eskimos is, by itself, convincing evidence that our Fairbanks people suffer from the kind of discrimination often experienced by minority groups. In fact, Fairbanks is Athabascan Indian territory in which the Fairbanks Eskimo community is an ethnic minority quite apart from other ethnic minorities who also live in Fairbanks. We regard it to be proper for our Eskimo people in Fairbanks to organize to secure their rights under the terms of the Indian Self-Determination Act.

At the same time, I recognize the practical problems faced by the BIA in adequately recognizing the rights of ethnic Native urban minorities. The cost of accommodating these rights under the terms of the Indian Self-Determination Act in most urban areas would probably be prohibitively high in terms of administration costs. But, however difficult are these practical problems, I feel the BIA should try to overcome them whenever the opportunity arises. I think such an opportunity exists in Fairbanks in the case of the Association of Interior Eskimos.

Home Rule in rural Alaska is a continually developing reality, and I feel it enables us in Barrow to intercede to help protect the rights of our people who reside in urban communities as ethnic minorities. As you know, there has been a strong renewal of the doctrine of Indian tribal sovereignty in the United States, and I regard the North Slope Borough to represent the joining of our Inupiat tradition of sovereignty with the American democratic tradition of Home Rule. Our people in the Northwest Territories are endeavoring to create the new Nunavat Inuit Territory as a part of their land claims settlement, which new Home Rule government would extend north of the treeline from our border and over to Greenland. Greenland, too, is negotiating for Home Rule status as a Danish commonwealth nation.

So, without challenging established civil authority, we Inupiat are negotiating and organizing for Home Rule all across the Arctic. Just as the United States endeavors to protect the rights of all Americans abroad, so, too, do we feel the obligation to help secure the rights of our people in Fairbanks, or wherever they feel their rights are not secured. Our people in Fairbanks have organized, and solicited our help, and I feel we should use our democratic strength to respond.

We considered asking you to contract with the North Slope Borough to administer all your programs which serve our people here, plus those of us who live either temporarily or permanently in Fairbanks, and would have sub-contracted those services to Fairbanks' Eskimo clients to the Association of Interior Eskimos. We don't, however, want to disturb your contractual relationship with the City of Barrow so, instead, we propose to designate the Association of Interior Eskimos to act as our contracting agent to negotiate and implement those BIA programs which serve our people within the North Slope Borough and Fairbanks excepting, however, those residing in Barrow. (For the purposes of the Indian Self-Determination Act, we hold that the Eskimo community of Fairbanks—all relatives and friends of ours—are to be included in the community of the North Slope Borough.)

Under the terms of PL 93-638, I am aware that, when contracting at the regional level, one is required to deal with the regional corporations, or their designees, as named in the Land Claims Act. The Arctic Slope Regional Corporation has designated the North Slope Borough to be its contracting agency and, although I realize our plans here may include new concepts, I do not feel they are inconsistent with the intent and purpose of the Indian Self-Determination Act. If we can negotiate this matter successfully, we may be able to innovate a new way of empowering urban Native ethnic minorities to deal effectively with their social problems of dislocation.

I feel that, by linking the concept of Native community self-determination in our urban areas to the strength of emerging homeland Home Rule, we can build urban Native ethnic community strength to transcend geographical distances and sustain the bonds of language, culture and tradition.

Sincerely,

EBEN HOPSON, *Mayor.*

ARCTIC SLOPE REGIONAL CORP.,
Barrow, Alaska, November 20, 1975.

Mayor EBEN HOPSON,
North Slope Borough,
Barrow, Alaska.

DEAR MAYOR HOPSON: I am pleased to inform you that the Board of Directors of Arctic Slope Regional Corporation unanimously passed the attached resolution concerning health and health education services.

We are very pleased to transfer this contracting authorization to your good offices and wish you every success in the implementation of the programs to the best advantage of all the Arctic Slope people.

Thank you for this opportunity.

Sincerely,

JOSEPH UPICKSOUN,
President.

Enclosure.

RESOLUTION NO. 75-27 NB

Whereas, the passage of the Self-Determination Act (PL 93-638) affirms the right of natives to participate to the maximum extent in determining the direction of Federal services to native communities so as to render such services more responsive to the needs and desires of those communities, and

Whereas, the Arctic Slope Regional Corporation is a fully recognized tribal organization under the terms of the law and is the representative, under the Act, of the native population of the North Slope, and

Whereas, the Arctic Slope Regional Corporation desires the North Slope Borough to administer the contractual provisions of the Act to the full advantage of the native community of the Arctic Slope, and

Whereas, the North Slope Borough Government has demonstrated its concern for the welfare of the native people in its jurisdiction and is administratively prepared to take full advantage of the contractual provisions of the Act: Now therefore, be it

Resolved, That the North Slope Borough be designated the contracting agency for Arctic Slope Regional Corporation to contract and administer the service programs under the provisions of PL 93–638.

Adopted this 12th day of November, 1975.

Joseph Upicksoun,
President.

Attest:

Nelson Ahvakana,
Secretary.

CERTIFICATION

I, the undersigned, Secretary of Arctic Slope Regional Corporation do hereby certify that this is a true and correct copy of a resolution duly passed by the Board of Directors at their meeting, November 12, 1975.

Nelson Ahvakana.

U.S. Department of the Interior,
Bureau of Indian Affairs,
Fairbanks, Alaska, December 5, 1975.

Robert Hern,
Fairbanks, Alaska.

Dear Mr. Hern: The Commissioner of Indian Affairs, Mr. Morris Thompson, will be in Fairbanks on Saturday, December 13, 1975.

I have been asked to arrange a meeting between the board of directors of the Association of Interior Eskimos, the Commissioner, the Area Director and myself at 10:30 a.m. on December 13, 1975.

In preparation for the meeting, may we please have from your board, a written list of unresolved issues affecting your association. Without this list, I do not feel that we can have an effective meeting, therefore, I consider the list mandatory before final arrangements can be completed.

Thank you for your cooperation, and I look forward to a most productive meeting.

Sincerely yours,

Frederick P. Baker,
Superintendent.

Alaska Legal Services Corp.,
Fairbanks, Alaska, December 5, 1975.

Rod Lavendere,
Tribal Operations, Bureau of Indian Affairs, Fairbanks Office,
Fairbanks, Alaska.

Dear Mr. Lavendere: The Association of Interior Eskimos has asked this office to investigate the circumstances surrounding their application for Tribal Government funds in April of 1975.

Would you please provide me with a copy of the regulations governing the awarding of tribal Government moneys, and would you also provide me with a summary of the actions taken by the Bureau in regard to the application submitted by the Association?

Please feel free to call me regarding this inquiry. I'm going to be in Minto and Tanana during the week of December 9–14, but would like to be able to work on the documents the following Monday.

Thank you for your help.

Sincerely yours,

William B. Schendel,
Attorney at Law.

DECEMBER 2, 1975.

WILL B. SCHENDEL,
Alaska Legal Services,
Fairbanks, Alaska.

DEAR MR. SCHENDEL: As to the complaints of the Association of Interior Eskimos and their being treated in an unfair and discriminatory manner I feel the same way. I aided Mr. Heffle President of the Association of Interior Eskimos fill out an application for TGDP fund, to enable the association to upgrade their Tribal Government and its affairs.

The form was completed, and submitted prior to the deadline date of April 15th 1975. A copy of the application was placed by me in the file kept in my office on the Association.

I checked the file now in the possession of the association, (I picked the file up from the BIA this date and brought it to Mr. Heffle's office) and find that the copy of the application is not in file, and that other copies of requests for financial assistance from the BIA are no longer in the file.

There has been repeated losses of documents, letters, forms, applications, and other types of correspondence submitted by the Association to Area Office and there appears no apparent reason nor cause for this.

If there is anything I can do to further aid and support the claims of the Association of Interior Eskimos please do not hesitate to contact me. Mr. Heffle has my current address.

I apologize for this letter, but I am in a hurry as my plane leaves for home in a half hour.

Respectfully,

JAMES SAVOK, Jr.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
Fairbanks, Alaska, December 1, 1975.

JOHN HEFFLE,
President, Association of Interior Eskimos,
Fairbanks, Alaska.

DEAR MR. HEFFLE: The Commissioner of Indian Affairs, Mr. Morris Thompson, will be in Fairbanks on Friday, December 12, 1975.

I have been asked to arrange a meeting between the board of directors of the Association of Interior Eskimos, the Commissioner, the Area Director and myself at a time and place yet to be determined on December 12, 1975. As soon as I learn of the Commissioner's itinerary, I will be in touch with you to arrange the details.

In preparation for the meeting, may we please have from you board a written list of unresolved issues affecting your association. Without this list, I do not feel that we can have an effective meeting, therefore, I consider the list mandatory before final arrangements can be completed.

Thank you for your cooperation, and I look forward to a most productive meeting.

Sincerely yours,

FREDERICK P. BAKER,
Superintendent.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
Fairbanks, Alaska, December 1, 1975.

JOHN HEFFLE,
Association of Interior Eskimos,
College, Alaska.

DEAR MR. HEFFLE: We have been informed by our Area Office that they will be conducting a training seminar on the implementation of P.L. 93-638 on the 8th and 9th of December in the Juneau Area Office for Juneau Branch Chiefs, Agency Superintendents and interested Tribal representatives.

There will be a second session on December 11 and 12 in Anchorage for Agency representatives and Tribal representatives. We regret that the Area Office has stated there are no funds for transportation to those meetings for Tribal representatives. However, we feel these will be of tremendous value and would like to welcome anyone from your organization.

Sincerely,

Frederick P. Baker,
Superintendent.

April 3, 1975.

Morris Thompson,
Commissioner of Indian Affairs,
Department of the Interior,
Washington, D.C.

Dear Mr. Thompson: In response to your request for Indian Organization for Regulation pertaining to P.L. 93-638, I am submitting the following:

1. Under definitions—Sec. 4(a):

This should be amended to read "Indian," meaning a person who is of American Indian heritage including the Alaskan Indian, Eskimo or Aleut.

2. Sec. 4(b):

This part reflects a broad spectrum in regards to Indians in the lower "48," but is restricted to the Alaskan Native. The paragraph should include Native Organization such as ours which are established for an equal and better life for the Native people in addition to these listed. We feel that on paper, the Alaskan Indians, Eskimos, and Aleuts are having their identity taken away with the terminology Indians or Indian Tribe is used to include all Natives when it is specifically stated in the beginning of this or any other act. This is not done in the white, black, Mexican or other race and it is resented.

We sincerely appreciate the Act in itself and what it was written for, and would appreciate it, if the aforementioned is taken in consideration. We also respectfully request that we be put on any bid lists or request for proposals for contracts by BIA in Interior Alaska.

I spoke at a meeting in regards to the act and it's section 4, and called attention to the inadequacies of the way A & B are written, to Senator Gravel's representative here in Fairbanks and spoke by telephone to the BIA in Washington also.

Respectfully submitted,

John Heffle,
President, Association of Interior Eskimos.

November 19, 1975.

Re Letter of Intent

Clay Antioquia,
Area Director, B.I.A.,
Juneau, Alaska.

Dear Mr. Antioquia: I have spoken to Arctic Slope Native Association, Joe Upiksoun and Eben Hopson, North Slope Borough Mayor, at Barrow in regard to the services provided by the Fairbanks Agency to their areas.

I have received from them their approval for our Association to contract from the B.I.A. and/and all Services and/or Programs specifically for the Arctic Slope Region.

This letter is to notify you of our intent to contract those Services—Programs, and desire to enter into immediate negotiations with the Bureau, and to implement the contract no later than January 1, 1976.

It is assumed that your office will afford all the cooperation, personnel, information and any other needed criteria on the same and equal basis you did for T.C.C.

Respectively submitted,

John L. Heffle, Sr.;
A.I.E. President.

Association of Interior Eskimos,
Fairbanks, Alaska, *November 19, 1975.*

Congressional Delegation,
Washington, D.C.

Gentlemen: I have sent you correspondence in which I stated various complaints against the B.I.A. office within Washington, D.C., and here in Juneau, Alaska.

To date, I have received no response as to what direction is being taken to correct these complaints. My understanding is that Morris Thompson and Clay Antioguia have stated that everything is running smoothly, when actually it is quite the contrary.

Our Tribal Government is still not receiving support from the B.I.A. The employees at the Fairbanks Agency are still uncertain as to their status. That paperwork recently filed here and area came up missing.

I feel you should contact *all* Agency Superintendents and ascertain what complaints they have that coincides with mine. I asked for Clay's removal, and I am wondering what has transpired in that area. Our tribe is extremely dissatisfied with the prejudicial treatment we are still receiving.

We get a lot of verbal promises if our tribe would recognize T.C.C. as sole source for the Agency contract, and the B.I.A. has not lived up to them.

If we cannot trust the B.I.A. here in Alaska and Washington, D.C., then pray tell me to whom do we turn?

Your immediate response is solicited.

Respectfully,

JOHN L. HEFFLE, SR.,
President,
A.I.E. AKLUK.

FAIRBANKS, ALASKA, *November 19, 1975.*

CONGRESSIONAL DELEGATION,
Washington, D.C.

GENTLEMEN: I have sent you correspondence in which I stated various complaints against the B.I.A. office within Washington, D.C., and here in Juneau, Alaska.

To date, I have received no response as to what direction is being taken to correct these complaints. My understanding is that Morris Thompson and Clay Antioguia have stated that everything is running smoothly, when actually it is quite the contrary.

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We get a lot of verbal promises if our tribe would recognize T.C.C. as sole source for the Agency contract, and the B.I.A. has not lived up to them.

If we cannot trust the B.I.A. here in Alaska and Washington, D.C., then pray tell me to whom do we turn?

Your immediate response is solicited.

Respectfully,

JOHN L. HEFFLE, SR.,
President,
A.I.E. AKLUK.

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C., November 18, 1975.

JOHN HEFFLE,
President, Association of Interior Eskimos,
College, Alaska.

DEAR JOHN: Thank you for providing me with a copy of your November 4 letter to Rogers C. B. Morton, Secretary of the Interior, regarding the contracting out of the B.I.A. Area Office in Juneau.

I appreciate your courtesy in bringing this to my attention.

With best wishes,

Cordially,

TED STEVENS.

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C., November 18, 1975.

JOHN HEFFLE,
President, Association of Interior Eskimos,
College, Alaska.

DEAR JOHN: Just a note to let you know that I have been contacted by B.I.A. Commissioner, Morrie Thompson regarding the problems you are experiencing with the B.I.A. offices in Alaska.

Commissioner Thompson is currently investigating this matter. Upon receiving his response, I'll be in touch with you again.

With best wishes,

Cordially,

TED STEVENS.

U.S. SENATE,
Washington, D.C., November 12, 1975.

JOHN HEFFLE,
President, Association of Interior Eskimos,
College Alaska.

DEAR JOHN: My Fairbanks office notified me that you have not yet heard from the Bureau of Indian Affairs concerning your request for funding an office to service the Eskimos of Interior Alaska.

I have written the BIA concerning the status of your request and will let you know when I hear from them.

Personal regards.

Sincerely,

MIKE GRAVEL.

ASSOCIATION OF INTERIOR ESKIMOS,
College, Alaska, November 4, 1975.

SECRETARY,
Department of the Interior,
Washington, D.C.

DEAR SIR: I am officially requesting from your office, authorization for Mr. Morris Thompson, Commissioner B.I.A. and Mr. Clay-Antioquia, Area Director B.I.A., Juneau, Alaska, to supply our association with a person or persons knowledgeable in contract proposals to aid our tribal governing body to formulate a bid proposal to contract the entire Area Office B.I.A., Juneau, Alaska.

The Contract proposal and all required, resolution, authorizations any letters of Non-objections on resolutions stating such objection, and any other pertinent documents; They will be submitted in accordance with Public Law 93-638 which is the authority which we are to utilize for the contract .

We feel that contracting the Area Office is in harmony with the intent of Indian Self Determination, which is the reason the act itself was brought into being, also that—

By Contracting, the functions and responsibilities of Area will be a benefit to Our Association Bureau Employees and Native Recipients of programs and services of the B.I.A.—

That our association does not intend to nor desire any change in Employees, of the Area Office, other than these needed to create a more substantial and improved office.

That this is needed in Management as presently the Area Office is not, nor has been for a considerable length of time, adequately representing the Alaskan Natives nor providing services to *All* Alaska Natives on a fair impartial and non-discriminating manner.

That Area Office continually and arbitrarily interferes with the Alaskan B.I.A. Agencies without prior knowledge, requests or approval of the Agency Superintendent, which has caused disruption and lack of coordinating day to day operation and function of the Agency, which has been detrimental to the B.I.A. Employees and Native beneficiaries or recipients of programs and services.

That the agencies should have more control in matters pertaining to their respective areas, without area interfering.

We respectfully request you honor this letter and its intent to contact Area Office here in Alaska.

Your immediate response is solicited.

Sincerely yours,

JOHN HEFFLE,
President, A.I.E./AKLUK.

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C., October 8, 1975.

JOHN HEFFLE,
President, Association of Interior Eskimos,
College, Alaska.

DEAR JOHN: Thank you very much for your recent letter bringing to my attention the problems you are having involving the B.I.A. offices in Alaska and your desire to see this situation remedied.

I have read your letter carefully, and have contacted the Commissioner of the Bureau of Indian Affairs, Morris Thompson, regarding your charges. I have asked that they investigate this matter, and report their findings to me. When I receive a reply from them, I will be back in contact with you.

With best wishes,

Cordially,

TED STEVENS.

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C., December 11, 1975.

JOHN HEFFLE,
President, Association of Interior Eskimos,
College, Alaska.

DEAR JOHN: Attached herewith is a copy of a letter I received from BIA Commissioner, Morris Thompson in further response to an inquiry made on your behalf regarding the problems you have experienced with BIA in Alaska.

I hope the information contained herein will be of help to you.

Please contact me again if I can be of additional assistance to you in any way.

With best wishes,

Cordially,

TED STEVENS.

Enclosure.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
Washington, D.C. December 5, 1975.

Hon. TED STEVENS,
U.S. Senate,
Washington, D.C.

DEAR TED: I have now received a response from our Juneau Area Office regarding your October 8, 1975, letter on behalf of Mr. John Heffle. Much of Mr. Heffle's complaints are too vague to respond to specifically; however, he did raise several points which I can address directly.

The handling of the reduction in force (RIF) action at Fairbanks was not without problems and misunderstandings. Naturally those affected by the action were less than happy with the situation and there were complaints of procedures not being followed, etc. All complaints were handled promptly and where errors were found, these were corrected. The Civil Service Commission office in Seattle was brought into the process and I believe all aspects of the RIF have now been properly handled and administrative due process afforded all concerned.

As to the question of the renewal of the lease for office space for the Fairbanks Agency office, this has been turned over to the General Services Administration which has responsibility for such matters. Any status report on this subject would have to come from GSA.

The continuing problem of housing for Fairbanks Agency perconnel, exacerbated by the influx of pipeline and related people, was addressed by the award of a contract to a Seattle firm for mobile homes. The contractor experienced delivery problems and was late in completing the project, however, all units have been installed and occupied for some time now.

Mr. Heffle's statement that unsigned, undated termination letters were sent to the Fairbanks Native Association and the United Crow Band, is true. However, this clearical error was corrected immediately upon discovery and properly signed and dated letters dispatched.

Incidentally, the termination of these contracts was later rescinded by mutual agreement of all parties (BIA, FNA, UCB, and the Tanana Chiefs Conference).

As to the lack of response from the Juneau Area Office to Mr. Heffle, the Area Director, Juneau, advises that he made numerous attempts to contact Mr. Heffle and did in fact talk with him, once by telephone and once face to face during the period cited in Mr. Heffle's complaint. In the telephone conversation, no mention was made of the problems to which Mr. Heffle now alludes nor were these matters specifically addressed in the later face to face meeting. In the latter meeting according to the Juneau Area Director "Mr. Heffle then took off on a scatter gun approach which was very difficult to follow or isolate any specific problems. I then suggested that Mr. Heffle make a list of all unresolved issues and submit them in writing so that I could respond. At this time (October 31, 1975) I am still waiting for that list."

I believe the major portion of Mr. Heffle's concern arose from what he felt was a period of indecision on the part of the Bureau regarding the contracting of social services in the interior of Alaska. There was, in fact, no indecision and at no time was the social service program in jeopardy; however, there was a brief time of misunderstanding between the area office and the Tanana Chiefs Conference as to the scope of the contract responsibility. This has now been resolved and I feel sure the program will proceed more smoothly in the future.

Your interest is sincerely appreciated. Please do not hesitate to call on me if I can be of further assistance in this or other matters which you may be concerned with.

Sincerely yours,

MORRIS THOMPSON,
Commissioner of Indian Affairs.

DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
Washington, D.C. November 7, 1975.

Hon. DON YOUNG,
House of Representatives, Washington, D.C.

DEAR DON: Thank you for your October 15 inquiry enclosing an October 9 letter from Mr. Melvin Charlie, President of the Tanana Chiefs Conference, Inc. Mr. Charlie wrote to you concerning the proposed Bureau of Indian Affairs-Tanana Chiefs Conference (TCC) contract.

Since writing his October 9 letter to you, Mr. Charlie and other TCC representatives have negotiated with Bureau Juneau Area representatives what appears to be a contract acceptable to both parties. Although not yet finalized the proposed contract essentially provides for funding the TCC social services portion of the contract at an annual rate of $114,000 prorated for the remainder of this fiscal year. The existing Fairbanks Native Association (FNA) and the United Crow Band (UCB) contracts are proposed to be funded at their rate of expenditure for last year rather than on the basis of what was initially allocated to them for that period. This will involve approximately $90,000 for FNA and $52,240 for UCB, a total of $256,240 for the TCC, FNA and UCB contracts.

We note Mr. Charlie's concern regarding an overall reduction of funds for the FNA and UCB contracts this year over last. In this regard, we must advise that in negotiating contracts for services we are obliged to base funding upon the scope of work to be accomplished or in the case of social services upon the caseload to be served. In effect, we are unable to continue with a given rate of funding if the workload requirement does not so justify. Based upon statistical data currently available to us the projected workload requirements for the TCC, FNA and UCB contracts do not justify funding beyond that indicated above.

You may be assured that this Bureau has no intention of diminishing the quality or quantity of assistance or services to persons served through these contracts. We intend to work closely with the contractors to meet documented client need as it arises. As social services assistance caseloads increase or decline we, in consultation with the contractors, will take appropriate action to maintain adequate funding levels.

We hope this information is helpful to you.

Sincerely yours,

MORRIS THOMPSON,
Commissioner of Indian Affairs.

Enclosures.

ASSOCIATION OF INTERIOR ESKIMOS,
College, Alaska, November 4, 1975.

SECRETARY,
Department of the Interior, Washington, D.C.

DEAR SIR: I am officially requesting from your office, authorization for Mr. Morris Thompson, Commissioner B.I.A. and Mr. Clay Antioquia, Area Director B.I.A., Juneau, Alaska, to supply our association with a person or persons knowledgeable in contract proposals to aid our tribal governing body to formulate a bid proposal to contract the entire Area Office B.I.A., Juneau, Alaska.

The Contract proposal and all required, resolution, authorizations any letters of Non-objections on resolutions stating such objection, and any other pertinent documents. They will be submitted in accordance with Public Law 93-638 which is the authority which we are to utilize for the contract.

We feel that contracting the Area Office is in harmony with the intent of Indian Self Determination, which is the reason the act itself was brought into being, also that—

By contracting the functions and responsibilities of Area will be a benefit to Our Association Bureau Employees and Native Recipient of programs and services of the B.I.A.—

That our association does not intend to nor desire any change in Employees, of the Area Office, other than these needed to create a more substantial and improved office.

That this is needed in Management as presently the Area Office is not, nor has been for a considerable length of time, adequately representing the Alaskan Natives nor providing services to *All* Alaska Natives on a fair impartial and nondiscriminating manner.

That Area Office continually and arbitrarily interferes with the Alaskan B.I.A. Agencies without prior knowledge, requests or approval of the Agency Superintendent, which has acused disruption and lack of coordinating day to day operation and function of the Agency, which has been detrimental to the B.I.A. Employees and Native beneficiaries or recipients of programs and services.

That the agencies should have more control in matters pertaining to their respective areas, without area interfering.

We respectfully request you honor this letter and its intent to contact Area Office here in Alaska.

Your immediate response is solicited.

Sincerely yours,

JOHN HEFFLE,
President,
A.I.E./AKLUK.

ASSOCIATION OF INTERIOR ESKIMOS,
College, Alaska, October 31, 1975.

SECRETARY,
Department of the Interior, Washington, D.C.

DEAR SIR: I am officially requesting from your office, authorization for Mr. Morris Thompson, Commissioner B.I.A. and Mr. Clay Antiquia, Area Director B.I.A., Juneau, Alaska, to supply our association with a person or persons knowledgeable in contract proposals to aid our tribal governing body to formulate a bid proposal to contract the entire Area Office B.I.A., Juneau, Alaska.

The Contract proposal and all required, resolutions, authorizations any letters of Non-objections on resolutions stating such objection, and any other pertinent documents. They will be submitted in accordance with Public Law 93-638 which is the authority which we are to utilize for the contract.

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By Contracting the functions and responsibilities of Area will be a benefit to Our Association Bureau Employees and Native Receipients of programs and services of the B.I.A.—

That our association does not intend to nor desire any change in Employees, of the Area Office, other than these needed to create a more substantial and improved office.

That this is needed in Management as presently the Area Office is not nor has been for a considerable length of time adequately representing the Alaskan Natives nor providing services to *All* Alaska Natives on a fair impartial and non-discriminating manner.

That Area Office continually and arbitrarily interferes with the Alaskan B.I.A. Agency without prior knowledge, requests or approval of the Agency Superintendent, which has caused disruption and lack of coordinating day to day operation and function of the Agency, which has been detrimental to the B.I.A. Employees and Native beneficiaries or recipients of programs and services.

That the agencies should have more control in matters pertaining to their respective areas, without area interfering.

We respectfully request you honor this letter and its intent to contract Area Office here in Alaska.

Your immediate response is solicited.

Sincerely yours,

John Heffle,
President,
A.I.E./AKLUK.

Association of Interior Eskimos,
College, Alaska, September 25, 1975.

Hon. Ted Stevens,
U.S. Senate,
Hon. Mike Gravel,
U.S. Senate,
Hon. Don Young,
U.S. House of Representatives,
Congressional Delegation, State of Alaska.

Gentlemen: This letter is with regard to the implementation of the contract of the Bureau of Indian Affairs to the Tanana Chiefs Conference. Our Association initially objected to this contract and to the determination of Tanana Chiefs Conference as sole source. We did this because we were afraid the Eskimos within the Tanana Chiefs boundaries would not receive fair treatment.

We were forced to appeal the contract and put pressure where we could. Finally, we were able to meet with the TCC board and work out problems in such a way that we felt they would do a proper job with the contract. We also were able to establish communication channels and felt that the Interior Eskimos would receive fair treatment. Because of this, we withdrew all of our complaints, grievances and appeals. TCC has not fallen down on any of their commitments and I do not expect them to.

However, the Bureau of Indian Affairs, Juneau Area Office, and the Commissioner of Indian Affairs never helped to alleviate our fears or answer our questions. Additionally, in an effort to get me off their backs, the BIA promised that services to all Natives would be maintained or improved, that no employees would be adversely affected, and that expertise would be kept by the Bureau and utilized by TCC to be sure that quality services would be provided.

The Bureau lied to me. In particular Clay Antiquoia and his staff have failed to perform their functions in implementing the contract. Their efforts have been detrimental to employee welfare, the Tanana Chiefs as a contractor, and most of all to the individual Natives. I cite the following examples for your reference:

(1) Reduction-in-Force (RIF) procedures were not followed—to wit: (a) Employees were offered jobs without position descriptions or duties described. (b) The Bureau failed to determine if TCC qualified for Inter-Governmental Personnel Act (IPA) before negotiating the contract and then promised both TCC and employees this was available while it had never officially been established. (c) Employees received RIF notices at different times. (d) Some positions in the reorganized Agency have still not been described.

(2) In an effort to better serve the Native people, the Fairbanks Agency attempted to reorganize and consolidate offices and functions. (a) These attempts

were delayed continually by the Area office until forced into action. (b) Then duties were changed without telling the Agency. (c) The present office lease has not yet been renegotiated. (d) The Agency employees have been so personally shook up that some have resigned, others have applied for other jobs, and some have just stopped functioning. For two weeks the Agency has been totally disrupted. I have attempted to do business on behalf of my people and have been unable to find offices and employees. In one case the employee had quit and no one knew where the files of that office were located.

(3) The Agency, in order to keep qualified, trained expertise, last spring gave the Area Director an ultimatum to do something to help the employees meet living expenses in Fairbanks to prevent all the Branch Chiefs, the Superintendent, and many others from resigning. The Area Director said he would try, but most of it was out of his hands (i.e., Civil Service, Commissioner's Office, etc.). The resignations were then submitted. After that, Clay Antiquoia made promises and went to the Commissioner and the Civil Service Commission. To date the only thing received by the Agency that was promised, was the declaration that the Agency was eligible for Government housing. An attempt was made to get mobile homes. A contract proposal went out and a contractor was selected. The contract had no meat in it. The trailers were due by August 15, 1975. Six have finally arrived, but are not yet liveable and won't be for some time. The Contract Office has no holds on the contractor. The Area Office has not yet arranged a lease, prepared hook-ups, determined rental rates, or done anything without the Agency constantly pressuring them. The employees have suffered tremendously, and all the Agency efforts on this were not spent on assisting Native clients.

(4) These problems were brought to the attention of Morris Thompson, the Commissioner of Indian Affairs, and I have received no response. I have asked for Clay Antiquoia's removal. I again ask this. Further, I ask that the Area Office be completely investigated to determine the functions that have and have not been carried out. In particular, attention needs to be paid to the following:

(a) Unanswered correspondence.

(b) Lost correspondence.

(c) Unfilled vacancies (when there were qualified applicants and certificates).

(d) Improper recruitment procedures.

(e) Illegal contract procedures. (An example here tied directly to the Agency contract was the termination letters sent to FNA and United Crow Band. These were undated, unsigned and failed to spell out the procedures involved.)

(f) Failure to return phone calls.

There are many, many more complaints and problems, and I feel only a full-fledged investigation with no holds barred will get to the bottom of the problems. The Native people are the ones hurt. I will not sit back and allow them to be the scapegoats for bureaucrats inaction and bungling.

I therefore respectfully ask for a Congressional investigation.

Sincerely,

JOHN HEFFLE, *President.*

ASSOCIATION OF INTERIOR ESKIMOS,
College, Alaska, August 13, 1975.

Re Letter acknowledging TCC as "Sole Source".

FRED BAKER,
Superintendent, Fairbanks Agency, B.I.A.

DEAR FRED: This is to inform you as of the above date my previous letter stating TCC as "Sole Source" in regard to the B.I.A. Fairbanks Agency contract is hereby rescinded.

The reason for this action being TCC's failure to abide by verbal agreements between them and our association.

I respectfully request that any and all contracts or negotiations between the B.I.A. Agency Area Office and TCC be suspended immediately and remain in status quo until I meet with the TCC Executive Board on August 27 and TCC and we reach agreements to benefit all those concerned and have them in writing.

I feel any further meetings in regard to the contracting of the Fairbanks Agency will be in violation of my civil rights, Federal laws, and statutes pertaining to contracting B.I.A. programs services.

Respectfully,

JOHN L. HEFFLE, SR.,
President.

U.S. Department of the Interior,
Bureau of Indian Affairs,
Juneau, Alaska, August 7, 1975.

John Heffle,
President, Association of Interior Eskimos,
College, Alaska.

Dear Mr. Heffle: This represents acknowledgement of your appeal under 25 CFR Section 2 of my determination and the Solicitor's opinion that the Tanana Chief's Conference may be considered as the sole eligible contractor.

In accordance with procedures established for processing of appeals, I am forwarding your letter of July 16 to the Central Office in Washington for action by the Commissioner of Indian Affairs.

Sincerely yours,

Clarence Antioquia,
Area Director.

July 29, 1975.

Melvin Charlie,
President, Tanana Chiefs Conference, Inc.,
Fairbanks, Alaska.

This letter is to inform you and others who are concerned with the contract in the Fairbanks Agency Bureau of Indian Affairs that our association does not wish to cause anything determental to Tanana Chiefs Conference, nor the recipients of programs where services are offered by the Fairbanks Bureau of Indian Affairs.

We, therefore, concur with Mr. Baker, Fairbanks Superintendent, that it would be in the best interest of all concerned with the contract that Tanana Chiefs Conference be considered sole source as to the agency contract.

This will then service notice that we agree and will recognize Tanana Chiefs Conference as sole source. That we wish Tanana Chiefs Conference and our association to keep working together for the same common goals for a better life of the interior natives.

I sincerely apologize that in my attempt to force area office and the director to treat us as an equal, we have caused any undue consternation.

Respectfully,

John Heffle,
President.

July 23, 1975.

Frederick P. Baker,
Superintendent, Fairbanks Agency Office,
Fairbanks, Alaska.

Dear Mr. Baker: This is to again appeal the decision as to Tanana Chiefs Conference being "Sole Source" in contracting in the Interior in regards to the complete Fairbanks Agency.

I am re-affirming our Association's intent to submit a proposal as soon as the solicitations to bid are mailed to potential contractors.

I also request in the event negotiations are made and/or it appears that a decision is to be made in regards to the contractor that this be done at Central or D.C. level as we feel we will not get fair and just consideration from Area Office, the Area Director or any of Area's employees under the Director's control.

Also at this time I respectively request consideration of a Charter under IRA to be given by the Secretary of Interior to our Association as we are and have been recognized as a tribal governing body by the Eskimos who reside in this area and who are removed from their ancestral village.

That we are an elite Eskimo Corporation as T.C.C. and we have in the past and at this time are representing the Interior Eskimos before the Federal Government, State of Alaska, City of Fairbanks and other Federal Agencies in matters of concern for their health, welfare and education rights under the Constitution of the United States of America and State and Federal laws and statutes.

We sent correspondence to the above request over two years ago through Area Office but at this date we have had no response either from Area or the Commissioner's office. That we are circulating a petition to the effect for signature.

Respectfully,

John H. Heffle,
President.

JULY 16, 1975.

CLAY ANTIOQUIA,
Area Director, Bureau of Indian Affairs,
Juneau, Alaska.

DEAR SIR: This is to officially appeal under 25 CFR Section 2, Yours' and the Solicitors prejudicial opinion and apparent decision; where as Tanana Chiefs Conference is to be considered Sole Source in regards to contracting the Fairbanks Agency Bureau of Indian Affairs here in the Interior.

I know not by what reasoning you arrived at the conclusion, but it is contrary to all your previous statements both as Acting Director, and Director of the Area Office Bureau of Indian Affairs during the meetings held in regards to the Contract with Tanana Chiefs Conference, North Slope and our Association.

You sir, are well aware of the Indian Self Determination Act and my Submitting Oral and Written Testimony in regards to the wording in the definition of "Tribes". It has a broad spectrum for the Lower 48 Indian but is restrictive to the Alaska Native and the wording does not include Eskimos and Aleuts.

You sir, are not taking into consideration the impact your actions will have on our Association.

You sir, are the one who stated "If the contract for the Fairbanks Agency was pushed too far and too fast, it would be a detriment to the project as a whole, that no unsolicited proposals should be submitted as this in itself causes a delay, that meetings would be held to allow input for guide lines to set up by your office for all the (3) three groups involved." Why the sudden change? You sir, are doing the exact same thing the "Indian Agents" did to the American Indian back in the 1800's.

I told you this in our last meeting, and again while Mr. Thompson was present at the Fairbanks Agency.

You were to notify me when it become apparent that a decision was imminent and we would have a meeting to discuss it.

The only word I got was Second Avenue Telegraphs and your own admission that for some unknown reason, we were left out in receiving a copy of your letter dated June four, that was sent to the village. In this I noted a deletion of Important Organizations such as Upper and Lower Yukon Development, 3 G's, and others.

You sir, I feel are extremely unsuited to your relative position, that you are inadequate and incapable of assuming the responsibilities as Area Director.

You sir, could best benefit everyone concerned by your immediate resignation.

It appears that every major position in your office is held by a Indian. What happened to the Eskimos in Alaska?

You sir, do not have the capabilities, fortitude and sheer guts to make your own mind up and to stand by it, now do you appear to have any trust in agency Superintendents but want everything handled at the Area level.

You are there to serve the Alaskan Natives. You are not dealing in Politics but with human beings, who are an equal to you. They are the beneficiaries of the programs, and Service offered by the Bureau of Indian Affairs.

You sir, are supposed to be acting in behalf of all Native people, not a select few.

You sir, have in the past gave me your word and hand in regards to my complaints and you would get back to me. To date, you have not done so, but give weak excuses when I finally call your office.

I never in my life seen a person so prone to forget.

A man is only good as his word and yours is like smoke. You do not know the word honor.

It was you and your office that denied our application for Tribal government money as we come under TCC. Sam Kito made statements to the contrary and said as we were Interior Eskimos, we had to take care of ourselves, that our Association was void of any relationship with TCC.

We are being treated by your office and yourself as a Bastard child. We are here, but you prefer not to acknowledge us.

Where were you and the rest of the groups you are supporting, when the Eskimos at "Eskimo Village" needed sewer and water. You did nothing but our Association got the funds to enhance the people's way of life on an equal level as their non-native brothers.

It was our Association that was spokesman and representative of the village. (on file at Fairbanks Bureau of Indian Affairs.)

There was an attempt to obtain funds locally for a Bilingual Program in the Athapascan Language, but when a survey showed the predominate language was Eskimo, the matter was no longer pursued. Why?

I intend sir, to press the issue all the way to the Supreme Court if necessary, and VIA the news media to allow the people to make their own decision as to whom shall represent them in regards to the Agency service.

Your letter implied that only TCC and no others was involved in the contract, and therefore did not allow them to decide for themselves. More prejudice?

You requested me to allow you to ascertain the responsibilities of my valid complaints by Administrative Action, instead of Court and legal procedures.

I am honoring my commitment and are giving you once again, the opportunity to Vindicate yourself, but truthfully I do not expect anything, on as in the past, empty words.

At the time, I see you are in fact pulling the same old tactics. I shall wait, but if you so, as you have in the past, then I shall take what steps are necessary to prevent you from doing it.

You, by your actions are injuring these whom you are responsible, violating trust one causing friction between two local Native groups.

Respectfully submitted,

JOHN L. HEFFLE, Sr.,
President.

Enclosure: Copy of letter sent to the villages.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
Juneau, Alaska, June 19, 1975.

JOHN HEFFLE, Sr.
President, Association of Interior Eskimos,
College, Alaska

DEAR MR. HEFFLE: Enclosed for your information are copies of documentation regarding the Tanana Chiefs Conference proposal to be sole contractor of the Fairbanks Agency. We are sorry for the delay in sending this information to you.

If you have any questions, please contact our Contracting Office at 586-7121.

Sincerely yours,

GEORGE L. BAKER,
Acting Contracting Officer.

Enclosures.

JUNEAU, ALASKA, *June 4, 1975.*

MELVIN CHARLIE,
President, Tanana Chiefs Conference,
Fairbanks, Alaska

DEAR SIR: This letter is to inform you of the action being taken by the Bureau of Indian Affairs, Juneau Area Office, regarding the proposal submitted by the TCC, to contract "Sole Source" all those programs that are contractable.

We have, as of the date of this letter to you, sent out a letter to all organizations within the TCC Region, that may also qualify as Sole Source, for their concurrence.

This is being done prior to negotiations with TCC as a "Sole Source" contractor based on the decision from Mr. Justin P. Patterson, of the Solicitor's Office, Department of the Interior, dated May 12, 1975.

Sincerely yours,

JOSEPH KAHKLEN,
Acting Area Director.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington, D.C., May 12, 1975.

Memorandum to: Area Director, Bureau of Indian Affairs, Juneau, Alaska.
From: Assistant Solicitor, Procurement, Division of General Law.
Subject: Cook Inlet Native Association and Tanana Chiefs Conference.

By letter of April 28, 1975, Mr. S. Bobo Dean, Counsel for the Association on American Indian Affairs, Inc. asked whether or not the Bureau of Indian Affairs could contract on a sole source basis under the BIA contracting regulations, 14H CFR Parts 1 and 3, with the Cook Inlet Native Association and the Tanana Chiefs Conference.

He had earlier sent me copies of letters to you dated March 24 and April 21, 1975 on this subject. The letters indicate you are willing to contract with these organizations for services within the respective regions, except for Anchorage and Fairbanks, which have native inhabitants from other regions.

By way of brief history the regulations in question are procedural rather than substantive regulations and the authority to award non-competitive tribal contracts is derived from the Federal Property and Administrative Service Act of 1949 as amended, 41 U.S.C. 251 *et seq* and the Buy Indian Act, 25 U.S.C. 47. These laws grant to the Secretary or his delegate the discretion to award noncompetitive procurement.

The basic section for interpretation is 14H–1.270–3 which defines Indian tribe as follows:

> "Indian tribe" means any Indian tribe, band, nation or other organization or community, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, and includes village corporations, regional corporations, and Native associations provided for or recognized by the Alaska Native Claims Settlement Act (85 Stat 688).

Under Section 14H–3.2 the Secretary may exercise his discretion in awarding a non-competitive contract to an Indian tribal contractor which is approved by an Indian tribe. Once this discretion is exercised, Section 14H–3.3 authorizes the use of a class determination and findings for such tribal contracts.

I have discussed the matter with Mr. Charles Soller and he and I agree that the contracting regulations in question do include the Cook Inlet Native Association and the Tanana Chief Conference as legal entities that the Bureau of Indian Affairs may consider for non-competitive tribal contracts, for Anchorage and Fairbanks, respectively. Both are recognized under the Alaska Native Claim Settlement Act. If the BIA recognizes that the Cook Inlet Native Association, for example, can qualify under the contracting regulations for a contract in all of its regions except Anchorage, for the same reasons it is qualified for Anchorage, since its geographic area for which it is recognized by the Alaska Native Claims Settlement Act, includes Anchorage. The only additional question presented by the presence of non regional natives is whether or not other regional corporations, associations and villages may be considered for a contract for Anchorage. Without rendering a final opinion, the Alaska Native Claims Settlement Act recognizes geographic areas only.

This opinion does not consider the policy question of whether or not the secretary or his delegate should exercise discretion in awarding a contract to these two organizations. Nor does it consider the services that may be contracted for. *Also, if more than one organization may qualify for a contract under these regulations, the BIA should insure that their concurrence is obtained.*

If I can be of further assistance please do not hesitate to let me know.

JUSTIN P. PATTERSON.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
Juneau, Alaska, June 4, 1975.

ALL ORGANIZATIONS WITHIN THE TCC REGION,
Fairbanks.

DEAR MR. PRESIDENT: The Bureau of Indian Affairs has a proposal from TCC to contract all programs now contractable within the TCC Region as a "Sole Source" not including the Educational program for Shageluk or Grayling.

If for any reason you object to this contract being negotiated with this organization, please let us hear from you by and not later than June 13, 1975.

Address all replies as urgent.

Sincerely yours,

JOSEPH KAHKLEN,
Acting Area Director.

Fairbanks: Doyon Limited, John Sackett or Sam Kito, 102 Lacey Street, Fairbanks, Alaska
North Pole: Doyon Limited, John Sackett or Sam Kito, 102 Lacey Street, Fairbanks, Alaska

Alatna: President Village Council, Attn: Ronald Sam, Chief, Slatna, Alaska
Alakaket: President Village Council, Attn: Beatus Moses, Chief, Alakaket, Alaska
Anvik: President Village Council, Attn: Theodore Kruger, Chief, Anvik, Alaska
Arctic Village: President Village Council, Attn: Gideon James, Chief, Arctic Village, Alaska
Beaver: President Village Council, Attn: Elmer Pitka, Chief, Beaver, Alaska
Bettles Field: President Village Council, Attn: Frank Tobuk, Chief, Bettles Field, Alaska
Birch Creek: President Village Council, Attn: Winston James, Chief, Birch Creek, Alaska
Canyon Village: President Village Council, Attn: Stanley Jonas, Chief, Canyon Village, Alaska
Cantwell: President Village Council, Attn: Henry Peters, Chief, Cantwell, Alaska
Chakyitsik: President Village Council, Attn: William Fredson, Chief, Chakyitsik, Alaska
Anaktuvak Pass Village Council: Attn: Danny Hugo, President, Anaktuvak Pass, Alaska
Barrow Village Council: Barrow, Alaska
Circle Village Council: Attn: Albert Carroll Sr., President, Circle, Alaska
Dot Lake: President Village Council, Attn: Carl Charles, Dot Lake, Alaska
Huslia Village Council: Attn;: Robert Vent, President, Huslia, Alaska
Kaktovak Village Council: Attn: Archie K. Brower, Mayor, Kaktovak, Alaska
Medfra Village Council: Medfra, Alaska
Point Lay Village Council: Point Lay, Alaska
Wainwright Village Council: Attn: David Bodfish, Mayor, Wainwright, Alaska
Nenana: President Village Council: Attn: Mitch Demientieff, Nenana, Alaska
Nikolai: President Village Council, Attn: Junior Greggory, Nikolai, Alaska
Telida: President Village Council, Attn: Nick M. Nikolai, Telida, Alaska
Medfra: President Village Council, Attn: Bill Woolard, Medfra, Alaska
Minto: President Village Council, Attn: Peter John, Minto, Alaska
Northway: President Village Council, Attn: Harold Northway, Northway, Alaska
McGrath: President Village Council, Attn: Ernest Holmberg, McGrath, Alaska
Grayling: President Village Council, Attn: Horace Sawyer, Grayling, Alaska
Nulato: President Village Council, Attn: Leonard Stickman, Nulato, Alaska
Rampart: President Village Council, Attn: Henry Wiehl, Rampart, Alaska
Ruby: President Village Council, Attn: Donald Honea, Ruby, Alaska
Shageluk: President Village Council, Attn: Adolph Hamilton, Shageluk, Alaska
Stevens Village: President Village Council, Attn: Gilbert Stevens, Stevens Village, Alaska
Takotna: President Village Council, Attn: Dave Miller, Takotna, Alaska
Tanacross: President Village Council, Attn: Oscar Isaac, Tanacross, Alaska
Tanana: President Village Council, Attn: Nick M. Nikolai, Telida, Alaska
Tetlin: President Village Council, Attn: Donald Joe, Tetlin, Alaska
Venetie: President Village Council, Attn: Abraham Christian, Venetie, Alaska
Huslia: President Village Council, Attn: Alberta Vent, Huslia, Alaska
Circle City: President Village Council, Attn: Allen John, Chief, Circle City, Alaska
Fort Yukon: President Village Council, Attn: Jonathan Solemon, Fort Yukon, Alaska
Eagle: President Village Council, Attn: Anthony Paul, Eagle, Alaska
Galena: President Village Council, Attn: Jimmy Huntington, Chief, Galena, Alaska
Holy Cross: President Village Council, Attn: Pat Frank, Holy Cross, Alaska
Hughes: President Village Council, Attn: Henry Beatus, Hughes, Alaska
Kaltag: President Village Council, Attn: Franklin Madros Sr., Kaltag, Alaska
Koyukuk: President Village Council, Attn: Gerald Pilot, Koyukuk, Alaska

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MAUNELUK ASSOCIATION, INC.,
Kotzebue, Alaska, April 28, 1975.

JOHN HEFFLE,
Association of Interior Eskimos,
Fairbanks, Alaska.

DEAR MR. HEFFLE: It gives me the pleasure to introduce our Association to you and your group.

Mauneluk Association, formerly the Northwest Alaska Native Association, is a legal non-profit organization established in 1966 in accordance to Alaska State Corporate Law. Its sole responsibility is to pursue the socio-economic advancement of its constituency. Its structure is nearly identical to that of the Tanana Chiefs Conference. Enclosed for your information are the articles and by-laws of the corporation with an organizational chart.

If at any time you wish myself or one of my staff to attend any of your future meetings, please call me at anytime. Also, if in your efforts to organize, you wish support from *our* organization, please do not hesitate to call on us.

For our files and for our general information outlet to our constituency, please send all information about your organization to us.

Sincerely,

ROBERT SCHAEFFER, *President*.

Enclosures.

NANA REGIONAL CORP., INC.,
Kotzebue, Alaska, April 11, 1975.

Mr. JOHN HEFFLE,
Association of Interior Eskimos,
Fairbanks, Alaska.

DEAR JOHN: I would like to take this opportunity to thank you and the Association for all the assistance you have given to the Eskimos from the NANA Region who reside in the Fairbanks area. I feel that an organization such as yours is necessary to represent our people in their dealings with State and Federal agencies. It is impossible for us to provide this service from Kotzebue.

You may utilize this letter as our indication of support and our acknowledgment that your organization does in fact represent the Eskimo who lives in the Interior. By copy of this letter, I am requesting the same endorsement from our regional non-profit corporation, Mauneluk Association, Inc.

Sincerely yours,

NANA REGIONAL CORP., INC.,
JOHN W. SCHAEFFER,
President.

JANUARY 20, 1975.

Mr. CLAY ANTIOQUIA,
Juneau Area Office,
Juneau, Alaska.

DEAR MR. ANTIOQUIA: As you are aware, there was an agreement between Tanana Chiefs, North Slope Borough and Association of Interior Eskimos, that we conduct monthly meetings in regards to Contracting the services provided by the BIA Fairbanks Agency.

The meetings were to set guidelines for contracting proposals, thus affording those who wish to contract or who have submitted letters of intent or equal chance to vie for the contracts either partially or in whole.

Tanana Chiefs Conference have stated they contacted your office previously in regards to this matter but you offered no response.

I am therefore soliciting your cooperation and request that as no one else has done anything further in this regard, to have a meeting set up for early February, on a date agreeable by all.

We can set up the future meetings each time we hold a meeting as everyone concerned would be present and therefore agree or disagree with any proposed dates.

You of course are invited to attend, but Bob Davis or a contracting specialist should be present to represent the BIA and aid in achieving guidelines suitable to the U.S. Government and those wishing to contract.

Please advise if this meets with your approval.

Sincerely,

———— ————,
President, Association of Interior Eskimos.

RESOLUTION NO. 75-4 OF TRIBAL GOVERNING BOARD OF ASSOCIATION OF INTERIOR ESKIMOS

CONTRACT OF AREA OFFICE B.I.A.

Whereas, Public Law No. 93-638 as amended was implemented for Indian self-determination; and

Whereas, Public Law No. 93-628—977-17—Section 2, Provided for contracting any and all services, programs, etc., currently being administrated by the Bureau of Indian Affairs; and

Whereas, the Area Officer of the B.I.A., Juneau, Alaska, come under No. 93-638, as the Area Office provides services and programs to Alaskan Native and is, therefore, contractable; and

Whereas, our Tribal Government is currently seeking Contracts or Joint-Ventures to enable our tribe to be self-supporting and gain business experience for Eskimos here in the Interior which will benefit our Tribal Governing Body: Therefore, be it

Resolved by the Tribal Governing Body of the Association of Interior Eskimos to contract the Area Office of the B.I.A., and that this Resolution is also a Contract Application for said office of the B.I.A., and further resolve that our tribe be provided all Pre-Contract Application Technical Assistance necessary to formulate a proposal to be submitted for the Contract of the Area Office and request access to all pertinent records necessary to accomplish the aforementioned Contract.

CERTIFICATION

I, the undersigned, as Secretary of the Association of Interior Eskimos, hereby certify that the Tribal Governing Body of the Association is composed of 6 members, of whom 6, constituting a quorum, were present at a meeting duly, and regularly called, notices, convened and held this 13th day of December, 1975; that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 5 members.

Dated this 13th day of December, 1975.

BLANCHE WILSON,
Secretary of the A.I.E.

PRESIDENTIAL SUPPORT RESOLUTION NO. 75-3 OF ASSOCIATION OF INTERIOR ESKIMOS

Whereas, a motion was made and passed by the Tribal Governing Board of the Association of Interior Eskimos to have the President seek Contracts, Joint Ventures, Grants and other funds to operate our Tribal Office to benefit our tribe; and

Whereas, the B.I.A. has repeatedly ignored the pleas and requests of our tribe and its President, and therefore, failed in its (the B.I.A.) responsibilities to aid our tribe on equal status as other internative groups; and

Whereas, the B.I.A. Representatives and Officials have questioned the authority of the President; Therefore, be it

Resolved by the Tribal Governing Board of the Association of Interior Eskimos that we support completely the actions and requests of the President of our Board, and his efforts to compel the B.I.A., Fairbanks Agency, the B.I.A. Area Office, and Washington, D.C., to treat the Eskimos here in the Interior on an equal, fair and just basis and manner in all considerations of monies, services, contracts, and programs being offered and administrated by the B.I.A., and be it further resolved that our President is and shall be our spokesman for our tribe and its tribal Government, before all Federal, State, and Municipal governments and agencies, and all private concerns or like entities; and that his work shall be binding; and

That contact by any person, or representatives of any Board member, or Council member, shall be through the Tribal Office from this date forth.

CERTIFICATION

I, the undersigned, as Secretary of the Association of Interior Eskimos, hereby certify that the Tribal Governing Body of the Association is composed of 6 members, or whom 6, constituting a quorum, were present at a meeting duly, and regularly called, notices, convened and held this 13th day of December, 1975; that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 5 members.

Dated this 13th day of December, 1975.

BLANCHE WILSON,
Secretary of the A.I.E.

NORTH SLOPE BOROUGH,
Barrow, Alaska, November 18, 1974.

Mr. MELVIN CHARLIE,
President TCC, 102 Lacy Street,
Fairbanks, Alaska.

DEAR MR. CHARLIE: Very frankly, I am appalled at the attitude of your office in particular reference to your continued procedure in attempting to finalize a contract with the BIA for the Fairbanks Agency.

As previously agreed to by all three parties, i.e.: North Slope Borough, TCC and Eskimos Inc., in Fairbanks, we were to continue our meetings and attempt to resolve the matter of distributing the services rendered by the Fairbanks Agency.

My recollection tells me that there are couple of options open to us to agree on.

Continued disregard for the welfare of Eskimo Inc., in the Fairbanks area in light of possible mismanagement with respect to disbursement of funds which I became aware of during our first two meetings will only add to the frustrations and suspicions which may lead to my own effort to block your gaining this contract.

If you would specify that the portion of the services you request for contract does not include the amounts needed for Eskimos Inc. so that they might deal directly with the agency for their needs, I should now agree with your submission of your proposed contract.

Short of that I will have to insist that we hold further meetings to make that clarification.

Call me.

EBEN HOPSON,
Mayor, North Slope Borough.

U.S. SENATE,
Washington, D.C., September 26, 1974.

JOHN L. HEFFLE, Sr.,
President, Association of Interior Eskimos, P.O. Box 80931,
College, Alaska.

DEAR JOHN: Thank you for bringing the charge of racial discrimination to my attention.

Needless to say, the oppression of an individual's chances for advancement is an intolerable situation. This charge requires serious consideration. I would suggest that a written complaint be filed with the Public Health Service's Equal Employment Office. The address is: Mr. Albert Kahklen, Alaska Area Native Health Service, P.O. Box 7-741, Anchorage, Alaska 99501.

I have written to Mr. Kahklen and urged that he give this matter the attention it deserves.

John, please keep informed of the progress of this inquiry. I hope the charge can be resolved in the best interests of all concerned.

Best wishes.

Sincerely,

MIKE GRAVEL.

DOYON, LIMITED,
Fairbanks, Alaska, May 16, 1974.

MEMORANDUM

To: Georgianna Lincoln, Fairbanks Native Community Center; Eva Heffle, Association of Interior Eskimos; and Melvin Charlie, Tanana Chiefs Conference.
From: John C. Sackett
Re: Meeting With Morris Thompson, BIA.

Morris Thompson called and said that he would be in Fairbanks on Saturday, May 25. He suggested that we get together with him at this time and consequently have set up a meeting at 1:00 p.m. that afternoon at the Fairbanks Native Community Center.

I believe this could be an ideal opportunity to discuss directly all areas in BIA affecting us and perhaps develop better lines of communication.

If you personally cannot make it, please feel free to send a representative.

FAIRBANKS, ALASKA, *February 22, 1974.*

PRESIDENT,
NANA REGIONAL CORP.,
Kotzebou, Alaska.

DEAR SIR: You are aware that there are many Eskimo people living in the Fairbanks area. This letter is written in the hope it will inform you of their problems and what they are doing about them.

Some of these people have signed up for the Native Land Claims in the region of their birth, namely, the Northwest, Bering Straits, and Arctic Slope Region. Many of them were signed up into Doyon, some having done so without knowing it, either through poor handling at the time of enrollment by F.N.A., and/or Doyon, and possibly through the desire of Doyon to swell their head-count beyond what it should be.

I do not wish at this time to press this point further but mention it only to show that Eskimo interests, individual and collectively, must be looked after here in the Interior where there are no Eskimo organizations. That is except one, the "Association Of Interior Eskimos". It was formed by a small but determined group who saw that their interests were not being taken care of by FNA, & Doyon. They have little or no representation or identification with these local groups.

My wife, Mary A. Hirn, maiden name Willock, daughter of Elsie Willock, is Eskimo from Candle, and she has signed herself and our 8 children and her crippled brother in Nana, Northwest Regional Corporation. She has many relatives in Kotzebou. I am caucasian, and am proud to be affiliated with my wife and her people. I work as a Lieutenant on the City of Fairbanks Fire Department. We both belong to, and carry membership cards in the before mentioned Association of Interior Eskimos. They allow husbands or wives of Eskimos to take active part in the organization.

At our last meeting we discussed the progress being made to stop the Tanana Chiefs and Doyon from taking over completely the Fairbanks region of the Bureau of Indian Affairs, which includes the Arctic Slope. Eben Hopson of the North Slope borough has already been contacted through our president, Mr. John Heffle, and they are working closely together on this matter. Mr. Hopson was very happy to have someone here on the scene in Fairbanks to work continually on this.

Mr. Hopson was approached also by our organization on future interests of people in his region and have tentatively agreed that a close bond of help and cooperation would be very beneficial, not only to the Eskimos of the Interior who have little voice at present, but to all people of the Arctic Slope Regional Corp.

We agreed at our last meeting that all Eskimo Regions should be contacted and in this regard, and since my wife belongs to Nana, she volunteered to send this letter with help from myself.

We urge to aid us wherever and whenever possible. It will be mutually beneficial to all Eskimos of all regions if there is a local hard core Eskimo group that is looking out for Eskimo interests. They could do many things to aid and inform the acknowledged Corporations of Nana, Bering Straits, and Arctic Slope people.

To be represented properly and to coordinate the work between the Regional Corporations and Fairbanks we thought it would be proper if at least one member of our organization was a "member at large" of the board of one of the Eskimo Regional Corporations. Someone who could travel quite a bit, was knowledgeable, and who could be a direct link between us and that region. In that respect we would like to see Laura Bergt be nominated for Member at Large, Nana Regional Corporation Board of Directors, and request at this time that you send us 10 application forms for nominating a candidate at large.

This local group of Eskimos often fights to keep its head above the water, to be heard. Believe me, they are being heard. It is your voice they are speaking for, your fight they are fighting for. The one issue with B.I.A. is an example, and I have no doubts that in the future there will be great opportunity to help Eskimos of all regions, and we urge your support.

I want to thank you for your time and would appreciate in your reply the feelings and expressions from the Nana Regional Corporation on this matter.

Very truly yours,

ROBERT M. HIRN.
MARY A. HIRN.

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C, January 17, 1974.

Mr. JOHN L. HEFFLE,
President, Association of Interior Eskimos,
P.O. Box 80931,
College, Alaska.

DEAR JOHN: Thank you for a copy of the letter sent by your association to the Area Director of the Bureau of Indian Affairs. I will be very interested in the progress you make in this venture.

Could you please inform me of the response that you have received from the Bureau to date on this matter. At the same time, if you have any materials which detail your proposal, I would like to receive copies of those items.

Please let me know if you encounter any difficulties in obtaining necessary information from the Bureau; I will do what I can to be of assistance.

Sincerely,

MIKE GRAVEL.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
Washington, D.C., April 4, 1973.

ELFRIEDA KUSHIDA,
President, Interior Eskimo Association, Inc., c/o Superintendent, Fairbanks Agency, Bureau of Indian Affairs, Post Office Box 530, Fairbanks, Alaska.

DEAR MISS KUSHIDA: We apologize for the delay in responding to the February 20 letter signed by you and two other officers of your organization. You have requested funding under the Tribal Government Development Program (TGDP).

We are enclosing for your information a copy of the TGDP guidelines which were mailed out to all federally recognized groups last September. As you will note, the deadline for filing applications has now passed. All available funds have been set aside to cover costs being incurred by the 60 groups which qualified this year. More than 150 applications were submitted.

While we appreciate your desire to accomplish certain objectives listed in your letter, there is some question as to whether the Interior Eskimo Association, Inc., could qualify for TGDP under existing guidelines.

Sincerely yours,

TED B. WHITE.
Chief, Division of Tribal Operations.

Enclosure.

FEBRUARY 20, 1973.

U.S. DEPARTMENT OF THE INTERIOR,
Bureau of Indian Affairs,
Washington, D.C.

DEAR SIR: At this time our group, Interior Eskimo Assoc. Inc., are applying for Tribal government Development Program, presented to us by the Bureau of Indian Affairs, Tribal dept, Fairbanks, Alaska.

Interior Eskimo Assoc. Inc., Alaska.

Federal funds may be contracted through the Bureau of Indian Affairs under a program entitled "Tribal Government Development Program" to tribes lacking sufficient tribal funds to finance their tribal government to attaining tribal goals.

Our tribe's most pressings needs, to carry on an effective government in order of priority, are:

' to provide temporary funding for management assistance for tribes with limited income. At present our assoc. has nothing except yearly dues.

2. The up dating of tribal membership rolls.
3. Assisting tribes in preserving their land base and other natural resources.
4. To stimulate the development of inter tribal organization seeking to resolution of common problems.
5. The development and preparation of proposals for the funding of programs and projects originating from agencies other than BIA.
6. The development of skills necessary for individual Indian leaders to fulfill most effectively their roles and responsibilities as tribal officials.
7. To help resolve the growing problem of representation for resident and non resident tribal members.
8. To attain schooling for our children to learn the Eskimo language and customs, which has showed greatly the people living in the cities have lost and we need now to pressure it.

Sincerely yours,

ELFRIEDA KUSHIDA, *President.*
MABEL PEDERSON, *Treasurer.*
MARIA TAYLOR, *Secretary.*

ASSOCIATION OF INTERIOR ESKIMOS,
College, Alaska, December 3, 1973.

Subject: Letter of Intent.

AREA DIRECTOR,
Bureau of Indian Affairs,
Juneau, Alaska.

DEAR SIR: This is to advise you that our association is hereby affirming that we wish to make known to you and your agency that the association of the Interior Eskimos intend to make a proposal to assume the responsibilities of the management and functions of the Fairbanks office of the Bureau of Indian Affairs and its entirety.

Our association feels that we can and will operate the BIA office in a manner which will benefit the native people and the U.S. Government. More informative correspondence will accompany our proposal which will be submitted at a later date.

We respectively request a complete copy of the Fairbanks BIA office's budget and expenditures for the last five years and in existence, and the projected budgetary information on the Fairbanks BIA operational cost and expenditures for the next five years.

This request is to enable our association to discuss the budget at our board meeting and thus allow us to make a realistic proposal to operate the BIA within budget limitations.

We feel that it is not needed to make vast or drastic changes or reductions in personnel presently at the Fairbanks office, but it is apparent that there needs to be some changes in management within certain departments, as there is too much lack of concern of the ultimate goals of the BIA causing an ever widing gap between the bureau and those whom they serve.

Respectively submitted,

JOHN L. HEFFLE,
President, AIE.

TANANA CHIEFS CONFERENCE,
Fairbanks, Alaska, December 26, 1973.

Mr. JOHN HEFFLE,
Interior Eskimos Assn., Inc.,
Fairbanks, Alaska.

DEAR MR. HEFFLE: Pursuant to our conversation on Dec. 26, 1973 at the Tanana Chiefs Conference, Inc. offices on the Bureau of Indian Affairs Contracting Issue. I hereby commit the Tanana Chiefs Conference to extend supportive services in respect to the Association affairs. Also as discussed, I cannot extend services that I would to a member village because the Association is not a member village.

Thank you very much.

Sincerely,

TANANA CHIEFS CONFERENCE,
MITCH DEMIENTIEFF,
President.

MARCH 24, 1976.

Mr. EBEN HOPSON,
Mayor, North Slope Borough, P.O. Box 546,
Barrow, Alaska.

DEAR MR. HOPSON: Please excuse our delay in responding to your letter of December 8, 1975. However, many of the issues you raised are related to questions of Bureau policy based on the recently enacted Indian Self-Determination and Education Assistance Act (P.L. 93–638). Although we now have administrative regulations (25 CFR 271) with which to implement the Act, their application to the unique situation in Alaska remains to be more fully defined. As you suggested in your letter, any policy decisions must, of course, be made in the context of the limited resources currently available for implementation of the Act. As I am sure you will agree, the paramount concern must be the provision of the highest possible quality of program services to those who rely on these services.

We did receive a letter, dated November 19, 1975, from Mr. John Heffle, President of the Association of Interior Eskimos. In his letter, Mr. Heffle advised this office of the Association's intentions to apply for a Contract for the Bureau Program services to the Arctic Slope Region. In our response, dated December 8, 1975, we provided Mr. Heffle with a copy of 25 CFR 271 which covers the issues of who may contract, under what conditions, and the required contents of an application to contract. We also referred Mr. Heffle to the Fairbanks Agency Superintendent, Fred Baker, for any Technical Assistance he may desire.

Thank you for your letter. Should we receive an application to contract from the Association of Interior Eskimos, your letter will be very helpful in evaluating that proposal.

Sincerely yours,

CLARENCE ANTIOQUIA,
Area Director.

DECEMBER 31, 1975.

Mr. CLARENCE ANTIOQUIA,
Area Director, Bureau of Indian Affairs,
Juneau, Alaska.

DEAR MR. ANTIOQUIA: On December 13, 1975, in Fairbanks, Alaska, a special meeting was held by the executive board of the Association of Interior Eskimos, Inc., the tribal governing body of the Interior Eskimo Tribe.

At the aforementioned meeting, Mr. John L. Heffle, Sr. was officially directed to negotiate, in behalf of said tribe, a grant from the Bureau of Indian Affairs, Department of the Interior, U.S. Government.

A maximum grant in the amount of $20,000.00 as allowed for initial planning is hereby requested.

The purpose of the requested grant is set forth as follows:

(1) To secure the services of consultants and technical assistance with sufficient expertise to ascertain the applicability of existing B.I.A. programs and services and other Federal programs.

(2) To finance the research for, and the initiating of, prepared budgets, administrative information, and applications as required for requested Federal grants.

(3) To retain an accounting firm to establish acceptable bookkeeping and accounting procedures to comply with Appendix B, Part 276, Chapter 1, Title 25, CFR, and commensurate with the needs of the Interior Eskimo Tribe.

The budget for expenditures for this planning grant will be as follows:

Travel and per diem	$2, 600
Accounting	5, 650
Consultants' fees	4, 200
Administrative cost	8, 600
Total budget	21, 550

Your cooperation in expediting the processing of this grant request for the Association of Interior Eskimos, Inc. would be greatly appreciated.

Sincerely,

JOHN L. HEFFLE, SR.,
President, Association of Interior Eskimos, Inc.

RESOLUTION 76-2 BY VILLAGE COUNCIL & ESKIMO VILLAGE

Whereas, the U.S. Government Department of Interior removed us from an Ancestral home and established Eskimo Village as a separate and unique village in the Interior of Alaska; and

Whereas, the Village Council by letter of Authorization dated November 30, 1972, authorized the Association of Interior Eskimos to represent our Village before all government and persons; and

Whereas, this village was established on, and has continued as a Native Village, in the Fairbanks vicinity since November, 1943, and has been governed by a Tribal Village Council; and

Whereas, we are members of the tribe of Interior Eskimos and residents of Eskimo Village; and

Whereas, the Village Council is the governing body of Eskimo Village; Therefore, be it

Resolved That the Association of Interior Eskimos is our tribal governing body and represents our village and its people before any State or Federal government, muncipalities, companies, associations or agencies, and to do any thing; act, acts, enter into any agreements or covenants or understandings to benefit our village, without prior approval.

CERTIFICATION

I, the undersigned, as Secretary of Eskimo Village Council, hereby, certify that the Council of Eskimo Village is composed of four (4) members of whom three (3) constitute a Quorum, were present at the meeting called on the 30th day of December, 1975, and that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of three members.

Dated: Jan. 14, 1976.

EDITH N. TEGOSEAK,
President.

——— ———,
Secretary of Eskimo Village Council.

RESOLUTION NO. 75-1 OF THE ASSOCIATION OF INTERIOR ESKIMOS

Whereas, This Association was incorporated under the State of Alaska, Non-Profit Corporation Laws to wit: AS10.20.005 et seg. as amended; and

Whereas, This Association was incorporated on July 26, 1972 according to the above cited law; and

Whereas, Under Article 11 of our articles of incorporation, we organized to promote the advancement and development of our educational, cultural, and social-economic interests as well as communicating with all Eskimos separated from their village or camp and residing in the Interior of Alaska; and

Whereas, This Association is seeking recognition from the United States Department of the Interior—Bureau of Indian Affairs, for services that it provides any eligible Native individual, or a group of individuals in an organization; and

Whereas, The language used in identifying recognized tribal organizations under Section 4 of Public Law 93-638 (Indian Self-Determination and Education Assistance Act) does not include associations such as the Association of Interior Eskimos as a recognized governing body of any Indian Tribe: Therefore, be it

Resolved, by the Board of Directors of the Association of Interior Eskimos, that the Secretary of the Interior provides language in the regulations of Public Law 93-638 to include our Association as a recognized "Tribal Organization."

CERTIFICATION

I, the undersigned, as Secretary of the *Association of Interior Eskimos* hereby certify that the Board of Directors of the Association is composed of 6 members, of whom 4, constituting a quorum, were present at a meeting thereof duly and regularly called, noticed, convened, and held this 15th day of May, 1975; that the

foregoing resolution was duly adopted at such meeting by the affirmative vote of 4 members.

Dated this 15th day of May, 1975.

———— ————,
Chairman of the Board.
BLANCHE WILSON,
Secretary of the Association of Interior Eskimos.

CONSTITUTION AND BYLAWS OF THE ASSOCIATION OF INTERIOR ESKIMOS

Whereas, we, a group of Eskimos, separated from our villages or camps, and living together in the lands of the State of Alaska and banded together as an Association, do hereby resolve that the following rules and procedures shall be binding upon all members of this Association; and

Whereas, any Eskimo, separated from their village or camp, or whose residence is in the Interior of Alaska which Area is defined as Tanana Chief boundaries Region 1971 Alaska Native Claims Act shall comprise our membership, and

Whereas, we further resolve to promote the advancement and development of our educational, cultural, and social-economic interests as well as communicating with all Eskimos concerning Alaska Native Claims Settlement Act, date December 13, 1971, and other matters, through mutual cooperation and effort under this Constitution and By-Laws; and

Whereas, the name of this organization shall be the Association of Interior Eskimos, with headquarters in the City of Fairbanks, State of Alaska.

ARTICLE I. RIGHT OF MEMBERS

Section 1. Right to Vote: All members in good standing 18 years old or older shall have the right to vote in all Association elections and meetings.

Section 2. Right to Share in Benefits: All members of 25% or more of Eskimo descent shall have equal opportunity to share in the benefits of the Association.

Section 3. Right to Appeal, Petition and seek relief or Grievances: All members shall have the aforementioned rights in accordance with the provisions in this Constitution and By-Laws.

Section 4. Rights of Children:

(*a*) The association will, according to ability of the child, and ability to finance on the part of the Association, provide grants to all children desiring higher education.

(*b*) The Association will, with funds permitting, set aside such funds for such purpose, provide for unusual medical treatment required, special schooling and remedial care, of all handicapped children.

(*c*) A child of single parentage will be recognized by the Association if one parent has 50% Eskimo blood.

(*d*) The welfare of all Native children as a whole shall be deemed of prime importance to the Association.

Section 5. Other Rights: The members of the Association shall enjoy all other rights as conferred by this Constitution and By-Laws, Federal and State laws not specifically mentioned herein.

ARTICLE II. MEMBERSHIP AND ASSESSMENTS

Section 1. All persons whose names appear on the Association Membership Census, being open to all Eskimos residing in or who are from the Interior Area, Interior Area being defined as Tanana Chiefs Region, 1971 Native Land Claims Act, which consist of 25% or more of Eskimo descent, shall be the original members of the Association of Interior Eskimos. The Association membership census, shall be prepared by the Board of Directors and updated annually for use at election time and a copy of such membership census be maintained in the Association's files at all times.

(*a*) Members are defined as persons being 25% or more Eskimo descent, or married to a person of 25% or more Eskimo descent, there shall be no age limits on membership. Exceptions-Section 3. Paragraph A and B.

Section 2. All children of members shall be considered members, provided they consist of 25% or more Eskimo descent.

Section 3. (*a*) Any-Eskimo may become a member of the Association provided he or she is married to an Eskimo of 25% or more descent. Non-Eskimo members cannot hold office on the Board of Directors or chair any committee. They may, however, serve as a member of a committee if asked to do so by a committee chairman, and have the right to vote.

(*b*) Non-Eskimo may become a member if during the marriage he or she had been married to an Eskimo of 50% or more descent and children were born, and he or she is the legal guardian of said children.

Section 4. Any Native of less than 25% Eskimo descent and have been raised in the Eskimo culture, may become a member of the Association by applying to the Board of Directors. The Board must then approve the application and forward any recommendations to the General Council. The application must pass by a 2/3 majority of the membership present. If selected, he or she cannot hold office or chair any committee. They may, however, serve as a member of a committee if asked to do so by a committee chairman.

Section 5. All members who cease to make their permanent home in the Interior Area shall cease to be eligible to vote until they resume their residency. Temporary absences up to one year shall not constitute loss of residence.

Section 6. Each member of voting age shall be issued an identification card showing his or her name, date of birth, and certification of his or her Eskimo blood.

Section 7. The General Council is authorized to levy assessments on its membership for operational expenses.

Section 8. The General Council or Board of Directors may make rules to govern membership either for the purpose of carrying out this article or covering membership matters not taken care of in this article.

Section 9. The dues of the Association shall be $2.00 per year per person. There shall be no dues or assessments to senior citizens (60 years of age or older) and members under 19 years of age.

Section 10. Any members desiring to resign from the Association shall submit their resignation in writing to the Secretary who shall present it to the Board for action. No member's resignation shall be accepted until their dues are paid in full.

Section 11. Upon recommendation of a member in good standing, seconded by another member and approved by 2/3 vote of membership: honorary life membership can be conferred upon any person who shall have rendered notable service to the Association or to the Alaskan Natives as a whole. An Honorary Member shall have none of the obligations of membership in the Association, but shall be entitled to all the privileges except of making motions, of voting and holding any office with the Association. An Honorary Member of Eskimo descent shall be entitled to all privileges covered in the By-Laws and Constitution.

ARTICLE III. THE GENERAL COUNCIL

Section 1. The General Council shall consist of all eligible voters appearing on the membership roll of the Association prepared in accordance with Article II of the Constitution and By-Laws.

Section 2. The General Council shall elect by secret ballot from its eligible members a President, 1st Vice-President, 2nd Vice-President, Treasurer, Secretary and a Sergeant-at-Arms. Plurality votes shall prevail. Offices shall be for one year.

Section 3. All officers shall serve in the positions that their titles signify until their successors are elected and/or appointed and seated. They shall serve at the direction of the general council. Their term of office shall begin at the close of the annual meeting at which they are elected.

Section 4. No member shall hold more than one office at a time and no member shall be eligible to serve more than two consecutive terms in the same office.

Section 5. The General Council shall have all powers and authority except those it specifically delegates to the Board.

Section 6. Procedures for absentee voting, general election procedures and other rules and regulations as may be advisable for the conduct of elections, meeting, and in general, the carrying out of the provisions of the Constitution and By-Laws shall be formulated, drafted and distributed to members of the General Council by the Board.

Section 7. The first regular meeting in October shall be designated as the annual meeting and shall be for the purpose of electing officers, receive report of officers and committees and for other business that may arise. All other general

Association meetings shall be regular meetings. No less than nine monthly Association meetings shall be held each year.

ARTICLE IV. ELECTIONS

Section 1. The following requirements shall be met before a member is able to serve as an officer of the General Council or Board of Directors:

(*a*) His or her name must be on the current membership roll of the Association, and must be currently paid up on dues and assessments.

(*b*) He or she must have attained the age of twenty-one years.

(*c*) He or she must be residing continuously in the Interior area.

(*d*) He or she must be at least 25% Eskimo.

Section 2. Non-Natives can be hired or appointed as an official delegate of the Association by approval of the Board.

* * * * * * *

ARTICLE VI. DUTIES OF OFFICERS

Section 1. The President shall direct and coordinate all activities of the Association and shall assign duties to all other officers. The President shall designate the time and place for all Board meetings and preside over all meetings of the General Council, officers and Board, be ex-officio member of all committees established. The President is responsible for the overall administration of the Association, ordinances and resolutions. He may vote in meetings only in case of a tie. He shall exercise the usual duties of a President and any other delegated to him.

Section 2. The first Vice-President, in the absence of the President, will assume the duties of the President and perform other duties as assigned by the President.

Section 3. The 2nd Vice-President, in the absence of the next highest officer above him, shall assume the duties thereof and perform other duties assigned by the President.

Section 4. The Secretary shall keep minutes of all meetings and shall maintain a filing system in which shall be kept an accurate record of all meetings, ordinances, resolutions and other business transactions. He shall conduct all correspondence assigned him. He shall perform other duties as may be assigned to him by the President.

Section 5. The Treasurer shall be responsible for the receipt and custody of all monies of the council and for the disbursement thereof as authorized by the Board of Directors; for seeing that accurate accounts are kept of monies received and paid out; he shall not pay out or authorize disbursement of any funds for which he is responsible except upon authorization of the Board. The Treasurer shall perform such other duties as are assigned by the President and be ex-officio member of the finance committee.

Section 6. The Sergeant-at-Arms is responsible for the setting of the meeting room, and to see the meetings are held in an orderly manner in accordance with Robert's Rules of Order. Newly revised.

ARTICLE VII. REMOVAL OF OFFICERS

Section 1. Any officer of the Board may be ordered recalled by the General Council provided a signed petition of 30% of the eligible enrolled voters is presented and a ⅔ majority vote approves such action.

Section 2. Any officer thus charged shall be given not less than thirty days to present testimony against the recall, after a valid petition has been presented.

Section 3. If the office of a Board member is vacant for resignation or recall the Board will appoint a successor to serve until the next regular meeting of the General Council, at which time the appointment will be approved or a new member elected to fill the unexpired term; except that in the case of the office of President, the 1st Vice-President shall assume the office for the unexpired term.

Section 4. Four consecutive unexcused absences from Board meetings by Board member shall constitute his or her automatic termination.

ARTICLE VIII. BOARD OF DIRECTORS

Section 1. The President, 1st Vice-President, 2nd Vice-President, Secretary, Treasurer, and Sergeant-at-Arms shall comprise the Board of Directors.

Section 2. The Board shall represent the General Council in all matters when it is not in session, and report to the General Council at least once monthly, all actions it has taken on its behalf and the progress thereof.

Section 3. When specifically authorized by the General Council, or the Board, the President or any other officer so designated shall represent the General Council before Federal or State agencies, and other individuals or groups, for the purpose of negotiating economic development activities for the benefit of the members and other Natives in Alaska.

Section 4. Special Board and membership meetings shall be at the call of the President or by three members of the Board at least three days in advance except in case of emergency.

Section 5 A quorum of the Board shall be one more than one-half of the Board members, provided that at least one or more of the first four ranking officers be present to conduct the meetings.

ARTICLE IX. BOARD COMMITTEES

Section 1. The Board of Directors shall establish such standing and special committees as it deems necessary. The Board shall establish the functions of these committees which shall operate under the general supervision of the Board.

Section 2. The chairman of all standing committees of the Board shall be appointed by the President, or by the nomination from the floor, for a term of one year, or until their successors are seated, and shall serve for no more than two consecutive terms.

ARTICLE X. FINANCE

Section 1. The fiscal year of the Council shall be the calendary year, from January 1 to December 31.

Section 2. All funds of the Association shall be deposited to the credit of the Association in a local bank approved by the Board.

Section 3. All checks and orders for the payment of money shall bear the signature of the Treasurer, President or one other authorized signature.

Section 4. The annual budget of estimated income and expenditures shall be approved by the Board of Directors. No expenses shall be incurred in excess of budgetary appropriations without prior approval of the Board of Directors.

Section 5. An annual audit is to be made and a report of this examination shall be submitted to the Board. All financial records are open for inspection by the membership and officials of government agencies having authorized business with the Association.

Section 6. Robert's Rules of Order, newly revised shall be the parliamentary authority governing the Association in all cases to which they are applicable, and which they are not inconsistent with these By-Laws and any special rules of order the Association may adopt.

ARTICLE XI. AMENDMENTS

Section 1. Amendments of this Constitution and By-Laws may be proposed by a resolution of the General Council or of the Board. Such amendments shall become effective when ratified by a majority vote of current members present, unless the motion to adopt specifies another time for its becoming effective, provided that the amendments have been submitted at previous meeting.

Now, therefore, be it

Resolved by the Board of Directors of this Association of Interior Eskimos that it adopts the foregoing Constitution and By-Laws.

Done and dated on the — day of ——, 1972, at ———, Alaska by a vote of — for and — against, the number voting being a majority of the officers of the Association.

EVA HEFFLE,
President, Association of Interior Eskimos.

———————
Secretary, Association of Interior Eskimos.

CHUCK IMIG,
COMMUNITY DEVELOPMENT ASSOCIATES,
Anchorage, Alaska, September 20, 1976.

Hon. MIKE GRAVEL,
U.S. Senator,
Anchorage, Alaska.
(Attention of Tyler Jones).

I attended a joint meeting of the IRA Councils of Koyuk, Stebbins, Shaktoolik, St. Michael and Unalakleet, Alaska. They asked me to tape their testimony for submission to the Senate Sub-committee that held a hearing on Anchorage, Sept. 3, 1976 on Tribal Government in Alaska. They felt that the testimony in Anchorage did not include enough of the village leaders and was heavily weighted with Indian Organizations and did not reflect the true opinion of the Leaders in their (the bush) area. This testimony was given after a discussion of the Anchorage hearing by Francis Degnan who testified from their area and after viewing a videotape of Clay Antioquia, Area Director for the BIA, where he presented the official position of the Area during a training seminal for contracting bureau services held in Juneau for the personnel of the Area office.

I certify that this testimony is unaltered and obtained by videotape at a duly constituted meeting of the Joint IRA's of the above villages.

CHARLES IMIG,
Notary Public, State of Alaska.

My commission expires May 9, 1978.

U.S. SENATE,
Washington, D.C., October 21, 1976.

Hon. JAMES ABOUREZK,
Chairman, Subcommittee on Indian Affairs, Senate Interior Committee, Dirksen Office Building, Washington, D.C.

DEAR JIM: Enclosed is a 15 minute videotape from the community of Unalakleet, Alaska. The IRA councils of Koyuk, Stebbins, Shaktoolik, St. Michael and Unalakleet have recorded their testimony for the recent Subcommittee hearings which were held in Alaska.

As you know, transportation means in Alaska are largely limited to air travel. For members of these villages to travel to Fairbanks, the closest hearing site, would have meant incurring impossible expenses. Thus, the IRA councils joined to record their testimony on videotape.

While I realize that testimony in this form may be unusual in the Subcommittee's experience, videotape has proven an expedient and effective means of communication in my state. Videotape has been used in village communities for some time for educational, health related, and news purposes. Videotape has proven invaluable in recording the views of Alaska Natives who perhaps do not speak or write in English. You will note, on this videotape, the testimony of one man in his Native language, and an interpretation of that testimony.

I respectfully urge this testimony be included in the record of the Subcommittee hearings held in Alaska September 2, 3, and 4.

Also enclosed is a certification to the validity of the testimony and a list of the speakers. The list should aid the recorder in the correct spelling of the witnesses' names.

Best regards.
Sincerely,

MIKE GRAVEL.

Enclosures.

1. Chuck Degnan
2. Frances Degnan
3. Tommy Sagoonick
4. Ted Katcheak
5. Anatoli Bogiaktok
6. Louis Steve
7. Leo Kobuk
8. Ambrose Otton
9. Lawrence Kobuk
10. Angela Lockwood
11. Lillian Paniptchuk

Mr. ———. We are submitting this information for the Senate Subcommittee on Indian Affairs. This group is IRA councils from Koyuk, Shaktoolik, Stebbins, St. Michaels and Unalakleet.

Fran, do you want to cover what you went over in the inquiry?

Ms. Degnan. Yes. I am Francis Degnan. I am the elected treasurer of Unalakleet IRA council. Upon request of the Unalakleet council, I appeared at the September 4, 1976, hearing in Anchorage conducted by the Senate Subcommittee on Indian Affairs, chaired by Senator Abourezk from South Dakota, Senators Stevens and Gravel of Alaska, and Commissioner John Borbridge.

I stated that the Unalakleets' IRA council would submit formal statements for the record along with my oral statement at the hearing.

For Public Law 93-638, Indian Self-Determination Act, definition of tribes, we agree and believe that the individual village be the tribe authorized and recognized by the Federal Government for contracts and grants under Public Law 93-638.

This is our statement.

Mr. ———. Tommy.

Mr. Sagoonick. I am Mr. Thomas Sagoonick, member of IRA council at Unalakleet and vice president.

I like the idea of this contracting. And the members that are here from outlying villages, that took time out from hunting and fishing, putting away food for the winter, which is very hard for a Native to do at this time of the year. So I am very proud that they could be here andjoining us here at this meeting.

On behalf of Unalakleet, I am very glad that this contracting is coming up so that way we could prove that we are man enough, human enough to help our people and to help ourselves. And I agree with the rest of these people that came from outlying villages that they have very much hard times, like we do in other villages, but they took their time out to come here and help out.

Thank you.

Mr. ———. Charley Henry.

Mr. Henry. My name is Charley Henry from Koyuk IRA council. I like that program. That is all I can say.

Mr. Katcheak. My name is Ted Katcheak and I am IRA council president.

My feelings about this workshop has been a great help to me and I hope it is going to be a great help to my people.

It is my feeling that our tradition has governed the people of Stebbins, that they have set forth in regulations and we have to follow. And I feel that they are responsible and they are responsible enough and devoted enough that they will take time out and not expect any income for the time that there is a need, especially today, to a class economy life style we are adapting to and the contracts are coming. We feel that in our village we have enough people to conduct this project and works that are given, will be given to us in the future.

Mr. Bogiaktok. Anatcli Bogiaktok.

Interpreter. This is Anatoli Bogiaktok, a council member of Stebbins area council and he has stated that he has been in the IRA council since 1932 when it was established.

Since then, they have elected him as member. He feel that probably because they feel that he has done a very good job. Although he doesn't speak in English very much and understands English very much, he has been willingly participated.

His job from his past experience has been laying out laws and regulations, rules that govern the people of Stebbins, and also for the purpose of establishing and documenting the laws that people have to follow.

And now the people of Stebbins they feel have laid enough laws and regulations for the people of Stebbins to follow. This will be an example that the young people will practice instead.

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